STATEMENT OF FACTS

The following facts are not in dispute. Trilátero's and Hector's are both restaurants with locations in Arizona serving Mexican-inspired fare. Def.'s Mot. Summ. J. Ex. A, 10:4; Def.'s Mot. Summ. J. Ex. B, 8:1. There are many such restaurants in Arizona, and it is difficult for smaller chains to survive without unique offerings to differentiate themselves from the competition. Ex. A, at 14:9-14; Ex. B, at 12:11-28. Serving food on triangular tortillas can help such restaurants succeed. Ex. A, at 14:5-14; Ex. B, at 19:1-8. In terms of time and money, triangular tortillas cost very little to prepare. Compl. ¶ 16-17; Ex. B, at 20:22-21:11.

In 2015, one such smaller chain, Hector's, opened its flagship Tempe location to positive reviews and community support for its authentic Mexican fare. Ex. B, at 4:17; Ex. B, at 9:15-25. But in 2017, when Hector's expanded to Phoenix, sales there flagged. Ex. B, at 10:10-27. By 2018, Rosa Camila Cruz González, co-founder and co-owner of Hector's, had experimented with a variety of gimmicks to attract customers: happy hours, theme nights, food in unusual shapes, cocktail specials, and even a magician to perform in the restaurant. Ex. B, at 12:11-24. While it pained her to resort to such novelties, Ex. B, at 18:14-19, Rosa was comforted by the hope that people who came for the gimmicks would return for Hector's authentic Mexican fare. Ex. B, at 13:21-24.

Rosa found that customers enjoyed eating tacos served on triangular tortillas, and the offering helped financially stabilize the Phoenix Hector's. Ex. B, at 18:21. Reluctantly, Rosa dedicated a corner of the menu to these novelty foods, and advertised

their availability. Ex. B at 19:6-7; Ex. B at 20:8-9. Eventually, the triangular tortillas became a permanent part of the menu at the Hector's restaurants in Phoenix, Scottsdale, and Mesa. Ex. B, at 19:15-16.

Trilátero's was founded by two white people in 2007, Ex. A, at 4:16-17; Ex. A, at 9:1, who believe their restaurant was the first in America to serve "traditional Mexican food" on triangle-shaped tortillas. Compl. ¶ 10. The majority of Trilátero's menu items have a triangular component, Compl. ¶ 12, and Trilátero's includes a variety of references to triangles in its marketing. Compl. ¶ 11. "Trilátero" translates to "three-sided" or "trilateral." *Id*.

Plaintiff's most-used advertising slogan is "it tastes better in a triangle," another is "taste the triangle;" any time Trilátero's opens a new location, they "plaster [this slogan] on everything." Ex. A, at 15:9-27. Similarly, a favorable review of Trilátero's concluded "I guess their slogan is right: it does 'taste better in a triangle.'" Ex. A, at 15:9-12. Some customers have opined that fare served in triangular tortillas tastes better because of the filling-to-tortilla ratio, Ex. A, at 19:17-19. However, Trilátero's co-owner and co-founder Robert Parr doesn't think that the fare served at Trilátero's tastes better because it is served in triangular tortillas. Ex. A, at 16:5-9; 16:20-21.

Around 2008, Plaintiff ran an advertising campaign with the slogans "free desert nachos" and "bonus scooping nachos." Ex. A, at 17:26-30. These slogans refer to the phenomenon of fillings becoming available to eat off of the plate, nachos-style, after they have fallen as a result of being served in a triangular tortilla. Ex. A, at 17:18-25. At first, Parr described this phenomenon negatively; he said the purpose of the campaign was to

address complaints by positively reframing the phenomenon. Ex. A, at 18:4-9. The campaign succeeded: people stopped complaining, and some people even said they liked that the fillings fell out. Ex. A, at 18:3-17.

Plaintiff's method of manufacturing triangular tortillas is simple and inexpensive, or, as Parr put it, "super easy." Ex. A, at 13:6-13. The process's steps are (1) making circular tortillas as normal using a press, (2) cutting the circle into a triangle using a pizza cutter, and (3) reusing the cut-off parts in the next batch of dough. *Id*. This process adds no food costs and adds minimal labor and time costs (on average about 16 and never more than 34 minutes per shift) to the process. *See* Ex. A, at 13:14-27.

Plaintiff objects to Hector's use of triangular tortillas and filed a Lanham Act claim seeking damages and to enjoin Hector's from serving or advertising them. Compl. ¶¶ 30-31. Hector's seeks summary judgment, arguing that even taking all evidence in the light most favorable to Plaintiff, triangular tortillas are functional and thus not entitled to Lanham Act protection. Def.'s Mot. Summ. J. 1.

ARGUMENT

Defendant is entitled to summary judgment on Plaintiff's Lanham Act claim because the undisputed facts establish that triangular tortillas are functional and therefore not entitled to trade dress protection.

A court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). A fact is material if it might affect the outcome of the suit under the governing law. *See Disc Golf Ass'n v. Champion Discs, Inc.,* 158 F.3d 1002, 1005-06 (9th Cir. 1998). In considering a motion for summary judgment, a court reviews the facts and all reasonable inferences in the light most favorable to the non-moving party. *Blumenthal Distrib., Inc. v. Herman Miller, Inc.*, 963 F.3d 859, 863 (9th Cir. 2020).

Here, no material facts are in dispute, and only questions of law remain for the Court. Taking the undisputed material facts in the light most favorable to Trilátero's, summary judgment is nonetheless appropriate because (1) their triangular tortillas yield a utilitarian advantage, (2) their advertising touts this utilitarian design, and (3) their method of manufacturing triangular tortillas is simple and inexpensive. Weighed collectively, these factors support of a finding of functionality, and the Lanham Act does not protect functional designs as a matter of law.

I. Defendant's motion for summary judgment should be granted because Plaintiff has failed to demonstrate any genuine dispute as to the fact that Trilátero's triangular tortillas are functional as a matter of law.

The Lanham Act provides a cause of action to anyone injured when a person uses any word, term, name, symbol, or device likely to cause confusion as to the origin, sponsorship, or approval of their product. 15 U.S.C. § 1125(a)(1)(A). A trade dress is a nonfunctional distinctive overall "look" that identifies the product with its source. *TrafFix*, 532 U.S. at 28.

To prevail on a claim for trade dress infringement under the Lanham Act, a party must prove that (1) the product design of the two products is confusingly similar; (2) the features of the product design are primarily non-functional; and (3) the product design is inherently distinctive or has acquired secondary meaning. *See Disc Golf*, 158 F.3d at 1004. Only element (2), functionality, is at issue here.

In an infringement action for unregistered trade dress, the party asserting protection has the burden of proving that the matter sought to be protected is not functional. 15 U.S.C. § 1125(a)(3). When a party's claimed trade dress is found to be functional as a matter of law, it is not entitled to Lanham Act protection. *Disc Golf*, 158 F.3d at 1004. Functional features of a product are features which constitute the actual benefit that the consumer wishes to purchase, as distinguished from an assurance that a particular entity made, sponsored, or endorsed a product. *Id* at 1006. Summary judgment must be granted when the party seeking Lanham protection fails to create a material issue of fact as to whether its claimed trade dress's design is nonfunctional. *Id* at 1008.

To determine whether a product feature is functional as a matter of law, a court considers these three factors: (1) whether the design yields a utilitarian advantage, (2) whether advertising touts the utilitarian advantages of the design, and (3) whether the particular design results from a comparatively simple or inexpensive method of manufacture. *Id* at 1006. No one factor is dispositive; all should be weighed collectively. *Id* (cleaned up).

When a design yields a utilitarian advantage, it weighs in favor of functionality. *See Talking Rain Beverage Co., Inc. v. S. Beach Beverage Co*., 349 F.3d 601, 603 (9th Cir. 2003). If a seller advertises the utilitarian advantages of a particular feature, this constitutes strong evidence of functionality. *Disc Golf*, 158 F.3d at 1008 (cleaned up). When a particular design results from a simple or inexpensive method of manufacture, it weighs in favor of functionality. *See Blumenthal*, 963 F.3d at 864.

Here, Plaintiff's alleged trade dress is not registered, therefore Plaintiff has the burden of proving triangular tortillas are not functional and therefore protectable. Even taking the evidence in the light most favorable to Plaintiff, Plaintiff has failed to do so.

Plaintiff's triangular tortillas yield a utilitarian advantage because some customers think menu items served in triangular tortillas taste better and because fillings inside menu items served in triangle tortillas fall and create "bonus nachos." Ex. A., at 17:11; Ex. A., at 18:3. Triangular-tortilla-based foods are also common in the industry, further supporting a finding that triangular tortillas yield a utilitarian advantage.

Plaintiff's advertising touts the utilitarian design of triangular tortillas. *See* Compl. ¶ 11(d). Plaintiff's most-used advertising slogan is "it tastes better in a triangle," and its

advertising has also included the slogan "taste the triangle." Ex. A, at 15:9-27. Taste is a key function of food, and these slogans tout the utility of a triangular tortilla to improve taste. Furthermore, Plaintiff's advertising includes the slogans "free desert nachos" and "bonus scooping nachos." Ex. A, at 17:26-30. These slogans tout the utility of a triangular tortilla to scoop up fallen fillings. Ex. A, at 17:18-25.

Lastly, Plaintiff's method of manufacturing triangular tortillas is simple and inexpensive — Parr describes it as "super easy," it adds no food costs, and it adds only minimal time and labor costs. Ex. A, at 13:6-27.

Weighed collectively in the light most favorable to Plaintiff, these factors demonstrate the lack of any genuine dispute as to the fact that the triangular tortillas are functional, and therefore not entitled to trade dress protection. Accordingly, the court should grant Hector's motion for summary judgment.

A. Triangular tortillas yield a utilitarian advantage — they are common in the restaurant industry, some patrons think they taste better, and their fillings fall out, creating bonus nachos.

A product feature need only have *some* utilitarian advantage to be considered functional. *Disc Golf*, 158 F.3d at 1007 (cleaned up). A design choice's being common in its industry corroborates assertions that the design yields a utilitarian advantage, *see id*, as does a designer's awareness of a utilitarian purpose for features of its product. *See Blumenthal*, 963 F.3d at 863. In a close example, a court, applying the identical Lanham Act standard, held that customers perceiving a food item to taste better because of its shape suggests the overall product design is essential to its purpose and affects its quality,

thereby yielding a utilitarian advantage. *Dippin' Dots, Inc. v. Frosty Bites Distrib., LLC,* 369 F.3d 1197, 1206-07 (11th Cir. 2004) (considering the role shape plays in a food product design's functionality). This in turn supports a finding that the design is functional and not entitled to trade dress protection. *Id*.

Here, triangular tortillas are common in the restaurant industry, corroborating Defendant's assertion that the design is functional. Triangular tortillas are the standard design used in nachos, a common offering at Mexican and Hispanic-inspired restaurants across the country. Trilátero's use of triangular tortillas is simply an appropriation of the nacho form, scaled up. Trilátero's own advertising acknowledges this similarity, characterizing the phenomenon of using the remainder of a triangular tortilla to eat taco filling that has fallen onto the plate as "bonus scooping nachos." Ex. A, at 17:29. Trilátero's awareness of this utilitarian purpose for the feature of triangular tortillas supports a finding of functionality.

Further evidence demonstrating utilitarian advantage comes from the improved taste (whether real or perceived) that results from serving triangle-shaped foods. In *Dippin' Dots*, the court reasoned that the spherical shape of an ice cream novelty created a perception of the ice cream as "particularly tasty." 369 F.3d at 1206. Indeed, a customer survey found that twenty percent of respondents believed the shape enhanced the flavor, and a majority perceived the shape as creating a superior texture. *Id*.

Similarly, here, ten percent of Trilátero's online reviews said food tastes better in a triangle. Ex. A, at 19:17. Specifically, reviewers mentioned enjoying the filling-to-tortilla ratio and fallen fillings caused by the triangular tortilla. Ex. A, at 19-20. Even when

taking the facts in the light most favorable to Plaintiff and accepting Parr's statement that the branding "it tastes better in a triangle" is non-literal, it is clear that at least *some* customers believe that the shape actually improves the taste. Again, a product feature need only have *some* utilitarian advantage to be considered functional. *Disc Golf*, 158 F.3d at 1007 (cleaned up).

Just like nachos, triangular tortillas improve taste and are useful for scooping up fallen fillings. Those are utilitarian purposes. Accordingly, Plaintiff's triangular tortillas are functional and not subject to trade dress protection.

B. Trilátero's advertising touts a utilitarian design — its most-used slogan is "it tastes better in a triangle" and it curbed customer complaints with its "bonus scooping nachos" advertising campaign.

A court should consider the extent of advertising touting the utilitarian advantages of the design; however, the advantages of a specific design feature need not be touted explicitly, but may be implied from the advertisement as a whole. *Disc Golf*, 158 F.3d at 1008 (cleaned up). When advertising is ambiguous, each reasonable interpretation is subject to scrutiny regarding its touting of a design's utilitarian features. *See Talking Rain*, 349 F.3d at 603-04. Courts are not required to ignore advertising that touts functional features just because those advertisements may have included messages aimed at nonfunctional features. *Id* at 604. The size and shape of a food product's design can be crucial to its taste and consistency, thereby affecting its quality; taste is a key component of a food's functionality. *See Dippin' Dots*, 369 F.3d at 1206-07.

Trilátero's advertising touts its tortillas' utilitarian design. The strongest evidence comes from Plaintiff's own complaint: "Over the years, Plaintiff has used many slogans that tout the advantages of triangle-shaped tortillas." Compl. ¶ 11(d). Furthermore, Parr stated in his deposition that "it tastes better in a triangle" is "by far the slogan [Trilátero's] use[s] the most." Ex. A, at 15:15-16. Parr goes on to say that whenever "[Trilátero's] opens a new location, we plaster [the slogan] on everything." Ex. A, at 15:26-27. Similarly, a favorable review of Trilátero's concluded "I guess their slogan is right: it does 'taste better in a triangle.'" Ex. A, at 15:9-12. These facts suggest that many Trilátero's patrons are familiar with this advertising slogan, which associates triangularity with good taste.

Parr stated that he doesn't actually think that the fare served at Trilátero's tastes better because it is served in triangular tortillas as opposed to round ones. Ex. A, at 16:5-9; 16:20-21. Taken in the light most favorable to Plaintiff, the implication is that the slogan is meant to be interpreted non-literally. Nevertheless, at least one meaning of Plaintiff's advertising is that food served in triangular tortillas tastes better, which supports a finding of functionality.

Furthermore, Plaintiff's advertising touts utilitarian advantages of triangular tortillas other than good taste. Trilátero's ran an advertising campaign that touted the benefit of items inside a triangular taco falling out onto the plate. Ex. A, at 17:18-20. Television commercials showed the fillings of a taco falling out onto the plate, only to be scooped up later with a tortilla chip, Ex. A, at 17:23-25, and ended with a voiceover saying phrases like "free dessert nachos" and "bonus scooping nachos." Ex. A, at 17:26-

30. The purpose of the commercial was to demonstrate that, because of the triangular tacos, sometimes fillings would fall out, leaving a "little bonus after your meal." Ex. A, at 18:1-3. Parr described this phenomenon negatively, and said the purpose of the advertising campaign was to address complaints by reframing it positively. Ex. A, at 18:4-9. This campaign was successful: people stopped complaining, and some people even said that they liked that the fillings fell out. Ex. A, at 18:10-17.

Viewing these facts in the light most favorable to Plaintiff, the triangular tortillas could be construed as dysfunctional — food falling off the tortilla in a way that would not occur with a round tortilla was initially viewed as a problem, according to Parr. However, Parr's canny advertising campaign demonstrated this phenomenon to be a feature, not a bug, and effectively curbed customer complaints by advertising the function of the triangular tortilla as a nacho. Trilátero's advertising campaign need not explicitly state "our tortillas function effectively as nacho chips with which to scoop dropped filling because they are triangular." Rather, the usefulness of the triangular design is implicit in the advertising; the inference of functionality is inescapable.

Whether literally or facetiously, Trilátero's repeatedly states "it tastes better in a triangle" in its advertising. Trilátero's also advertises its triangular tortillas' ability to function as nachos. These facts, even when presented in the light most favorable to Plaintiff, permit only one legal conclusion: Plaintiff's advertising of the triangular tortilla touts its utilitarian design.

C. Trilátero's particular design results from a comparatively simple and inexpensive manufacturing process — making triangular tortillas adds no food costs and adds minimal labor and time costs.

A functional benefit may arise if a design achieves economies in manufacture or use. *Disc Golf*, 158 F.3d at 1008. The party asserting trade dress protection has the burden of proving that the matter sought to be protected is not relatively simple or inexpensive to manufacture; offering no evidence to do so weighs in favor of a finding of functionality. *Id*.

Here again, Plaintiff's own assertions in the record provide the strongest evidence against its complaint. Parr described the triangular-tortilla manufacturing process as "super easy." Ex. A, at 13:6. The process's steps are (1) making circular tortillas as normal using a press, (2) cutting the circle into a triangle using a pizza cutter, and (3) reusing the cut-off parts in the next batch of dough. Ex. A, at 13:6-13. This process adds no food costs and adds minimal labor and time costs (on average about 16 and never more than 34 minutes per shift) to the process. *See* Ex. A, at 13:14-27. Plaintiff has achieved economy in manufacture via its remarkable efficiency and reuse of materials. Therefore, Plaintiff's triangular tortilla design results from a comparatively simple or inexpensive method of manufacture.

Viewing the evidence in the light most favorable to Plaintiff, Trilátero's triangular tortillas are functional as a matter of law. Weighed collectively, the factors discussed herein sufficiently indicate the lack of any genuine dispute as to the fact that the triangular tortillas are functional, and therefore not entitled to trade dress protection.

CONCLUSION

The court should grant Plaintiff's motion for summary judgment.

My word count is 3,462. I neither gave nor received unauthorized assistance in completing this motion memo.

Daniel E. Stainkamp

206 Purefoy Road, Chapel Hill, NC 27514 • (704) 246-9256 • daniel.stainkamp@unc.edu

WRITING SAMPLE B

I wrote the following motion memorandum in Spring 2022 as my submission to the Joint Journal Competition, which is the North Carolina Law Review's method for selecting new staff members. I was awarded a position as a staff member for my performance on this competition; I have since been promoted to Comments Editor for the North Carolina Law Review. This is my own independent writing, unedited by others.

The assignment was to draft a recent development memorandum taking a position in response to the North Carolina Supreme Court's ruling in Southern Environmental Law Center v. North Carolina Railroad Company, 378 N.C. 202, 2021-NCSC-84. I argued that the court's decision in this case protected corporate privacy at the expense of a fully informed citizenry.

Right to Know versus Right to No: How the North Carolina Supreme Court's Protection of Corporate Privacy Hurts an Informed Citizenry

Introduction

Something is rotten in the state of North Carolina. In recent years allegations of fraud and corruption have been leveled against democrats and republicans alike.[1] In late 2021, the Senate adopted Senate Bill 473, entitled "Enhance Local Government Transparency."[2] It seems they took a cue from Louis Brandeis, who remarked, "[s]unlight is said to be the best of disinfectants; electric light the most efficient policeman."[3] But the judiciary's approach to interpreting this and other sunshine laws neglects an insidious problem. Governments have increasingly colluded with private entities to subvert open records law compliance.[4] The corporate form has become a cloaking device, allowing state-controlled entities to dodge accountability.[5]

While "public" and "private" are often discussed as binary opposites, the line between the two blurs[6] in practice.[7] The North Carolina Supreme Court addressed this in *Southern Environmental Law Center v. North Carolina Railroad Co.*, decided in 2021.[8] The issue was whether the state exercises such "substantial control" over the North Carolina Railroad Company (NCRC) that it is an agency or subdivision of government for the purposes of the Public Records Act (the PRA).[9] The court analyzed this issue using a non-outcome-determinative[10] nine-factor test[11] to inform a "totality of the circumstances" approach to interpret the intent of the PRA.[12]

The supreme court reasoned that the amount of "sovereign authority" the state wields over a given entity is an "important feature" of any PRA determination.[13] This offers more discretion to judges than the restrictive approaches favored in some states.[14] But flexibility is value-neutral. The majority might have acceded to Southern Environmental Law Center (SELC) by liberally construing the PRA, establishing a precedent favoring broad access. Instead, it made a rigid, outdated interpretation that privileges corporate privacy at the expense of transparency.

The decision in *SELC* was a victory for NCRC and other quasi-governmental entities[15] who prefer nondisclosure[16] and fear harassment.[17] In the age of privatization,[18] the decision is unsurprising. And there's a colorable argument that such protections prevent a chilling effect whereby entities subject to sunshine laws simply evade scrutiny preemptively by not producing records in the first place.[19] All this notwithstanding, the decision is bad for democracy.[20]

This Recent Development will analyze the implications of the supreme court's decision in *SELC*. In doing so, it will weigh the protection of the privacy of quasi-public entities like NCRC against the obstacles to a well-informed citizenry and an effective fourth estate created by the decision. Part I of this analysis will discuss the background of *SELC*. Part II will evaluate the difficulty of balancing the competing interests of privacy and transparency. Part III will discuss the quasi-government doctrine[21] and examine the supreme court's narrow construction of the PRA. Part IV proposes solutions to correct course after the dangerous precedent set by *SELC*.

I. Relevant Facts of *Southern Environmental Law Center v. North Carolina Railroad Co.*

NCRC was created by statute in 1849.[22] North Carolina was its majority shareholder at that time; by 2006 it owned all NCRC stock.[23] Today, the state chooses NCRC's directors, approves all substantive changes to its articles of incorporation, facilitates financing, receives rate reports, controls its revenue, and will receive its assets upon dissolution.[24] In 2019, SELC wrote to NCRC to request records, pursuant to the PRA, related to NCRC's involvement in a light rail project.[25] NCRC denied the request, claiming it was not subject to the PRA.[26]

SELC filed suit to compel production of the records.[27] After a hearing, the North Carolina Business Court granted NCRC's motion for summary judgment, citing lack of clear legislative intent that NCRC be subject to the PRA.[28] The decision in *SELC* affirmed that decision, holding

that although the state has exercised considerable authority over NCRC in the past 170 years, it has done so as NCRC's sole shareholder rather than in its "capacity as a sovereign."[29]

The supreme court sent a message: in the battle between corporate privacy and public records access, privacy prevails. This shades NCRC and other private entities "sunburned"[30] by sunshine laws like the PRA—at the peril of transparency. This decision flouts the public's "right to know"[31] and damages the fourth estate. Moreover, to the extent one believes SELC made the PRA request in good faith and in accordance with its mission,[32] the decision may cause material harm to the environment and have a detrimental effect on minority populations.[33]

II. The Fundamental but Reconcilable Tension Between Privacy and Transparency

In *SELC*, the key dispute is the PRA's applicability. Both sides agree that public entities are subject to the PRA. The majority holds that consistent maintenance of a separate corporate identity and structure and independence from direct state operational oversight immunize private entities like NCRC from the PRA.[34] The dissent argues that this preoccupation with form distracts from the substance of NCRC's public actions, ignores how "substantially intertwined"[35] the state and NCRC are, and defies both precedent and the legislative intent behind the PRA.

The dispute between the parties evokes a fundamental tension with broad implications.[36] The public records and public information compiled by the agencies of state government or its subdivisions are the property of the people,[37] but a right to privacy has been inferred from the United States Constitution.[38] NCRC makes a slippery-slope argument that a ruling in favor of SELC would expose to the PRA the many private and nonprofit institutions in whom the state invests as a shareholder, essentially depriving them of their constitutional "right" to privacy.[39]

Reconciling these competing interests is difficult, but solutions exist that protect both privacy and transparency. Subjecting NCRC to the PRA need not make it a public agency for all

purposes,[40] nor would it grant unfettered access to its records. Rather, it would restrict access to public records.[41] NCRC would reserve the right not to disclose confidential business information and records whose dissemination might frustrate the purpose for which they were created.[42]

It is unclear exactly why NCRC wished not to be subject to the PRA. Sadly, the record is sparse regarding the details of the motivations of the parties in *SELC*. Ignorance of their concerns makes it harder to know how to tailor a just remedy that attends to the valid concerns of each party. Moreover, context might reveal a reasonable motive by NCRC to oppose disclosure, or might reveal a pernicious motive by SELC to harass NCRC baselessly. But in the absence of such context, it seems strange to defer to an undefined fear at the expense of transparency.

Accessing documents from entities whose behavior impacts the public is value-neutral. It may well be that the sage board members of NCRC averted a disastrous boondoggle by abandoning the light rail project. Access to the details of such a decision would benefit the public and could boost constituent confidence. Conversely, if there were some other reason that the project were abandoned, the public should have a chance to assess that reasoning, since the NCRC will necessarily be involved in future light rail projects.[43] And were there malfeasance,[44] people have the right to access the information they need to hold the government accountable—this is the purpose behind the PRA.[45] This kind of speculation would be unnecessary if NCRC's records were publicly accessible. Creating a legal path to such access requires prevailing attitudes about privacy to be dismantled and the current juridical approach to be reconsidered.

III. The Quasi-Government Doctrine and the Limits of Broad Construction

The court in *SELC* called "sovereign authority" an "important feature" in assessing PRA applicability. But this standard is vague, and sovereignty can be outsourced.[46] The quasi-government doctrine encourages government accountability commensurate with outsourcing by

scrutinizing entities once outside the purview of sunshine laws. Accordingly, in North Carolina, "the [PRA] is intended to be liberally construed to ensure that governmental records be open and made available to the public, subject only to a few limited exceptions."[47] A presumption of complete access to quasi-governmental entities' records exists in other jurisdictions[48] as well, and recent United States Supreme Court decisions have emphasized broad democratic policies favoring openness.[49] But this doctrine is narrow,[50] and the supreme court has discretion to defer to the Attorney General, State Ethics Commission, and Progress Evaluation Division instead.

This results in an absence of bright-line rules, which permits extreme deviations in logic. The same facts relied on by the supreme court to conclude that NCRC is not subject to the PRA could be used to mount an argument with a conclusion precisely to the contrary. For example, the General Assembly (GA), for the purposes of a 2011 study, determined that NCRC was a "state agency."[51] The majority deploys this fact as though it clearly settles the question of whether NCRC is now a private or public entity for the purposes of the PRA, but ignores the obvious inference that follows: NCRC can be considered "public" for at least some purposes.[52]

Likewise, one might interpret the fact that members of NCRC's board were able to request state insurance as proof that NCRC is a public entity.[53] That it had to be statutorily disclaimed to the contrary might suggest to cynics that the word "private" is being used in bad faith to shield entities that seem to otherwise act like the government. Furthermore, the fact that in 2000 the GA passed an act giving NCRC the power of eminent domain may signal to laypersons that NCRC functions like the state.[54] While of course there are differences between the powers afforded to private and public condemnors,[55] both, crucially, are capable of acquiring property by eminent domain for the purpose of public use or benefit—a classic state power.

When entities can do the things governments do, they should be held to the same level of accountability as governments.[56] The fact that the supreme court credulously drew a conclusion to the contrary in *SELC* indicates just how excessively flexible the current approach is. Therefore, merely appealing to broaden the construction of the PRA is insufficient. Instead, the problem should be remedied via a legislative amendment to the PRA specifying a nature-of-the-records approach to supersede the existing approach. This would inhibit judicial legislation, adapt to creeping privatization, and robustly protect the legislative intent behind the PRA.

IV. Why a Nature-of-the-Records Approach is the Best Way Forward

The controlling "totality of the circumstances" approach affords the judiciary excessive latitude to frame the relationship between corporations and government. As a category, "agency of North Carolina or its subdivisions" is outdated and maladapted to the current terrain of privatization among entities serving the public. Protecting the right to know requires an approach that focuses on the substance of records requested, rather than on the form of their custodian.

The nature-of-the-records approach does so. It does not require any enumerated factors for access, making private entities' documents accessible by the public *provided the documents relate to the government*.[57] Unless courts recognize that public documents belong to the public regardless of who possesses them, they are violating the spirit of sunshine laws.[58] If a majority of courts viewed the privatization issue from a nature-of-records perspective, there would be no need to fear the growing privatization movement from a public access standpoint.[59]

Opponents will argue the nature-of-the-records approach begs the question regarding statutory interpretation, essentially forcing a broad construction of the PRA and ignoring legislative intent. But ultimately the benefit of an informed citizenry will outweigh any burden imposed on entities subject to the PRA. The adoption of the nature-of-the-records approach

would provide a useful tool in correcting course toward transparency after the pro-opacity precedent set in *SELC*. Protecting corporate privacy offers no comparable public benefit.

Conclusion

In *SELC* the court wrongly framed the issue as a matter of statutory interpretation. The purpose of PRA is clear: to make public records public. But the PRA was written before the age of privatization, and its language is inadequate to accomplish its stated goal. Moving forward, the supreme court can correct course by adopting the nature-of-the-records approach. In the meantime, an attempt by SELC to access the NCRC records possessed by the state pursuant to Internal Improvements[60] may provide a workaround.

NCRC is in a unique position: it is already subject to record disclosure pursuant to state law.[61] The state can request records from NCRC, and audits are provided to the GA.[62] To the extent these records can be construed as "public" pursuant to the PRA, they are the property of the people, including SELC. The majority glosses over this possibility, instead using N.C.G.S. § 124-17(b) & (c) to insist that NCRC was always a private entity and therefore not subject to the PRA. But a good faith (perhaps mediated) discussion among NCRC, SELC, and the state might yield a workable compromise satisfactory to SELC's immediate concerns while providing the confidentiality protection NCRC is due.

It must be remembered that subjecting NCRC to the PRA does not give SELC carte blanche to access its records. Protections and limitations are built in to both the PRA and Internal Improvements[63] to ensure confidential records remain private and only records related to public business are accessible. Given the benefits citizens stand to gain from broader access and the comparatively small burdens imposed on businesses by that access, the court should consider adjusting its approach in PRA litigation to permit access to records based on their substance.

[1] *See, e.g.*, Matthew Sedacca & Katie Van Syckle, *The Ground Where Election Fraud Allegations Grow Freely*, N.Y. TIMES (July 13, 2021), https://www.nytimes.com/2021/07/13/insider/bladen-improvement-association.html; Alan Blinder & Richard Fausset, *Like 'Stepping on a Rake': A Wave of Scandals Hits North Carolina Republicans*, N.Y. TIMES (April 4, 2019), https://www.nytimes.com/2019/04/04/us/north-carolina-republicans.html.

[2] S.B. 473, 2021 Gen. Assemb., Reg. Sess. (N.C. 2021).

[3] LOUIS D. BRANDEIS, OTHER PEOPLE'S MONEY 92 (Frederick A. Stokes Co. rev. ed. 1932).

[4] Daxton "Chip" Stewart & Amy Kristin Sanders, *Secrecy, Inc.: How Governments Use Trade Secrets, Purported Competitive Harm and Third-Party Interventions to Privatize Public Records*, 1 J. OF CIVIC INFO. 1, 7 (2019).

[5] *See Id*.

[6] *See generally* James D. Barnett, *Public Agencies and Private Agencies*, 18 Am. Pol. Sci. R. 34 (1924) (suggesting the distinction between private and public agencies is unclear).

[7] *See id*. at 35 ("The directors of a railroad . . . act in the double capacity as agents for the company and as trustees for the public . . . [t]he corporation is thus both private and public.")

[8] S. Envtl. Law Ctr. v. N. Carolina R.R. Co., 378 N.C. 202, 2021-NCSC-84, ¶ 1.

[9] *Id*. ¶ 1. *But see id*. ¶ 44 ("[C]an a corporate entity, wholly owned by the state . . . directed by a board whose members are appointed by [s]tate elected officials, wielding the power of eminent domain . . . evade public scrutiny under the [PRA]?").

[10] *Id*. ¶ 29.

[11] *See id*. ¶ 19 (detailing SELC's argument regarding application of the nine factors).

[12] *See id*. ¶ 29 (detailing the supreme court's analytical approach).

[13] *Id.*

[14] *See generally* Craig D. Feiser, *Protecting the Public's Right to Know: the Debate Over Privatization and Access to Government Information Under State Law*, 27 FLA. ST. UNIV. L. REV. 825 (2000) (analyzing flexible and restrictive interpretive approaches across America).

[15] *See* State v. Beaver Dam Area Dev. Corp., 752 N.W.2d 295 (Wis. 2008), ¶ 32 (discussing quasi-governmental corporations and how to assess entities that are not clearly public or private).

[16] *See* State *ex rel.* Oriana House v. Montgomery, 854 N.E.2d 193 (Ohio 2006), ¶ 36 (contending private entities are not subject to public scrutiny merely by performing services on behalf of the government, and that compelling such entities to adhere to sunshine laws should be difficult).

[17] *See* Keith W. Rizzardi, *Sunburned: How Misuse of the Public Records Laws Creates an Overburdened, More Expensive, and Less Transparent Government*, 44 STETSON L. REV. 425, 433 (2015) (describing how citizens can manipulate the government, waste time and resources, and harass public servants with records requests and attendant lawsuits).

[18] Christina Koningisor, *Transparency Deserts*, 114 N.W. UNIV. L. REV. 1461, 1514 (2020) (explaining that following the 1980s local governments widely privatized their services, resulting in formerly "government" functions now being routinely operated by local private actors).

[19] Rizzardi, *supra* note 17, at 436.

[20] *See* Koningisor, *supra* note 18, at 1515 (emphasizing transparency's role in stemming government corruption, mismanagement, and abuse); *see also* SELC, 2021-NCSC-84, ¶ 61 ("It is an uncontestable pre-condition of democratic government that the people have information about the operation of their government." (quoting Sam J. Ervin, Jr., *Controlling "Executive Privilege*," 20 LOY. L. REV 11, 11 (1974))).

[21] *See generally* Daxton "Chip" Stewart & Amy Kristin Sanders, *Secrecy, Inc.: How Governments Use Trade Secrets, Purported Competitive Harm and Third-Party Interventions to Privatize Public Records*, 1 J. OF CIVIC INFO. 1, 11 (2019) (describing the doctrine).

[22] S. Envtl. Law Ctr. v. N. Carolina R.R. Co., 378 N.C. 202, 2021-NCSC-84, ¶ 45.

[23] *Id*.

[24] *Id*.

[25] *See id*. n.3 (emphasizing public impact caused by NCRC's abandonment of light rail project).

[26] *Id*.

[27] *Id*.

[28] *Id*.

[29] *Id*.

[30] *See generally* Keith W. Rizzardi, *Sunburned: How Misuse of the Public Records Laws Creates an Overburdened, More Expensive, and Less Transparent Government*, 44 STETSON L. REV. 425, 425 (2015) (lamenting broad public records laws).

[31] *See* Craig D. Feiser, *Protecting the Public's Right to Know: the Debate Over Privatization and Access to Government Information Under State Law*, 27 FLA. ST. UNIV. L. REV. 825, 861–64 (2000) (comparatively surveying this "right" across America).

[32] SOUTHERN ENVIRONMENTAL LAW CENTER, https://www.southernenvironment.org/about-us/ (last visited May 8, 2022).

[33] *See generally* Benjamin Chavis, *foreword* to CONFRONTING ENVIRONMENTAL RACISM: VOICES FROM THE GRASSROOTS. 3, 3–5 (Robert D. Bullard ed., South End Press 1993) (explaining environmental racism).

[34] *Id*. ¶ 39.

[35] *Id*. ¶ 55; *See also* Feiser, *supra* note 14, at 859–60 n.223 (suggesting this approach would likely find states intertwined with private entities in constructive possession of their records).

[36] *See* State v. Beaver Dam Area Dev. Corp., 752 N.W.2d 295 (Wis. 2008), ¶ 4 (explaining the tension between vigilance against intentional opacity via privatization, and cognizance of the benefits of flexibility, confidentiality, and efficiency created by privatization).

[37] N.C. GEN. STAT. § 132-1(b) (2019).

[38] *See, e.g.*, Griswold v. Connecticut, 381 U.S. 479, 484, 14 L. Ed. 2d 510 (1965) (recognizing a right of marital privacy emanating from penumbras of the guarantees in the Bill of Rights).

[39] *See SELC*, 2021-NCSC-84, ¶ 24 (summarizing a portion of defendants' argument).

[40] *Id*. ¶ 50.

[41] *See id*. ¶ 71 (summarizing the limitations to records access provided for by statute).

[42] *Id*.

[43] READY FOR RAIL, https://www.readyforrailnc.com/ (last visited May 7, 2022).

[44] *See* Christina Koningisor, *Transparency Deserts*, 114 N.W. UNIV. L. REV. 1461, 1484 (2020), (mentioning a state-sanctioned pollution coverup in Iowa).

[45] *SELC*, 2021-NCSC-84, ¶ 49.

[46] *See* Koningisor, *supra* note 25, at 1513 n. 292 (characterizing the recent trend to privatize traditional state functions like prison operations as "outsourcing sovereignty," a move toward secrecy that frustrates accountability and creates separation-of-powers imbalances).

[47] *SELC*, 2021-NCSC-84, ¶ 60 (cleaned up).

[48] *See, e.g.*, Daxton "Chip" Stewart & Amy Kristin Sanders, *Secrecy, Inc.: How Governments Use Trade Secrets, Purported Competitive Harm and Third-Party Interventions to Privatize Public Records*, 1 J. OF CIVIC INFO. 1, 20–21 (2019) (listing several state supreme court decisions

across America wherein quasi-public entities were held subject to open-records laws); *see also* Beaver Dam, 752 N.W.2d, ¶ 91 (arguing subjecting quasi-governmental corporations to liberally construed sunshine laws is supported by policy and results in beneficial transparency).

[49] *See* Stewart & Sanders, *supra* note 4, at 22 (suggesting some recent United States Supreme Court decisions have emphasized broad democratic policies favoring openness).

[50] *See* Stewart & Sanders, *supra* note 4, at 20 (describing doctrine as a way to argue private entities on contract with governments are quasi-governmental and thus subject to sunshine laws).

[51] *SELC*, 2021-NCSC-84, ¶ 31.

[52] *Id*. ¶ 65.

[53] *Id*. ¶ 35.

[54] *Id*.

[55] *See* N.C. GEN. STAT. § 40A-3 (2021) (outlining private and public condemnation powers).

[56] *See* Beaver Dam, 752 N.W.2d, ¶ 7 ("If an entity does not want to be subject to [sunshine] laws, then it should change the circumstances under which it operates."); *see also* Oriana House, 854 N.E.2d ¶ 53 (suggesting entities providing public functions be held accountable via sunshine laws for its performance of those functions).

[57] *Id*. at 861 (emphasis added).

[58] *Id*. at 861–62.

[59] *Id*.

[60] N.C. GEN. STAT. § 124 (2013).

[61] *Id*.

[62] *Id*.

[63] *Id*.

Applicant Details

First Name	**Andrea**
Middle Initial	**L**
Last Name	**Stein**
Citizenship Status	**U. S. Citizen**
Email Address	**andrealaurenstein@gmail.com**
Address	**Address** Street **515 22nd St NW Apt 315** City **Washington** State/Territory **District of Columbia** Zip **20037** Country **United States**
Contact Phone Number	**(561) 254-1471**

Applicant Education

BA/BS From	**University of Florida**
Date of BA/BS	**May 2020**
JD/LLB From	**The George Washington University Law School** **https://www.law.gwu.edu/**
Date of JD/LLB	**May 15, 2024**
Class Rank	**15%**
Law Review/Journal	**Yes**
Journal(s)	**The George Washington International Law Review**
Moot Court Experience	**Yes**
Moot Court Name(s)	**GW Moot Court**

Bar Admission

Prior Judicial Experience

Judicial Internships/ Externships	**Yes**
Post-graduate Judicial Law Clerk	**No**

Specialized Work Experience

Recommenders

Young, Kathryne
k.young@law.gwu.edu
Mortellaro, Stephen
mortellaro@law.edu
Tsesis, Alexander
atsesis@gwu.edu

This applicant has certified that all data entered in this profile and any application documents are true and correct.

ANDREA STEIN

515 22nd St. NW Apt. 315 Washington, DC 20037 | (561) 254-1471
www.linkedin.com/in/andrealaurenstein | andreastein@law.gwu.edu

May 25, 2023

The Honorable Jamar K. Walker
The United States District Court for the Eastern District of Virginia
600 Granby St.
Norfolk, VA 23510

Dear Judge Walker:

I am a law student at The George Washington University Law School and will be graduating in May 2024. I am writing to apply for a judicial clerkship with you for the 2024-2025 Term. Enclosed please find my resume, a writing sample, my law school transcript, and letters of recommendation from Professors Young, Tsesis, and Mortellaro. Thank you for your consideration of my application.

Sincerely,

Andrea Stein

ANDREA STEIN

515 22nd St. NW Apt. 315 Washington, DC 20037 | (561) 254-1471
www.linkedin.com/in/andrealaurenstein | andreastein@law.gwu.edu

EDUCATION

The George Washington University Law School — **Washington, DC**
Juris Doctor Candidate — Expected May 2024
GPA: 3.708
Journal: *The George Washington International Law Review*
Skills Board: GW Law Moot Court Board (Social Chair)
Activities: Labor and Employment Law Society; 1L Negotiations, Mediations, and Mock Trial Competitions Participant
Honors: George Washington Scholar (top 1%-15% of class as of Fall 2022); Dean's Recognition for Professional Development

The University of Florida — **Gainesville, FL**
Bachelor of Arts, summa cum laude, in Business Administration (three years) — May 2020
Honors Thesis: *The Accuracy of International Economists' Predictions on Brexit*
Honors: President's Honor Roll and Dean's List Recipient

EXPERIENCE

Holland & Knight LLP — **Washington, DC**
Summer Associate — May 2023 – Present

The United States District Court for the District of Columbia — **Washington, DC**
Judicial Intern for The Honorable Rudolph Contreras — January 2023 – April 2023
- Drafted orders and opinions responding to motions related to sentence reduction, protective orders, and employment discrimination
- Cite checked opinions related to suppression of evidence, Administrative Procedures Act, and Americans with Disabilities Act

The George Washington University Law School — **Washington, DC**
Research Assistant for Professor Kathryne Young — January 2023 – Present
- Code data and identify themes from answers to a survey for an access to justice project

Torts Teaching Assistant for Professor Alexander Tsesis — September 2022 – December 2022
- Assisted professor by reviewing exams and held exam review sessions to respond to student questions

The United States Department of Justice, Civil Division, Fraud Section — **Washington, DC**
Law Student Intern — August 2022 – November 2022
- Researched civil procedure issues to assist with an active healthcare fraud litigation under the False Claims Act
- Analyzed, substantiated, and cite checked cases attorneys use in motions for federal court
- Presented on a case on interlocutory appeal questioning whether converting reimbursement funds would create liability under the False Claims Act

United States Securities and Exchange Commission, Division of Enforcement — **Washington, DC**
Scholars Program Legal Intern — May 2022 – July 2022
- Researched various federal securities law issues to assist with the disbursement of a multi-million-dollar fund
- Drafted memoranda and orders recommending action for settlement distributions to injured investors

Stein & Stein, P.A. — **Palm Beach, FL**
Legal Assistant — August 2020 – July 2021
- Drafted motions to dismiss, complaints, answers, motions for sanctions, and other documents to be filed in court and with the Financial Industry Regulatory Authority (FINRA)

INTERESTS

- Cycling, watching musical theater, painting by numbers, reading thriller novels

THE GEORGE WASHINGTON UNIVERSITY

WASHINGTON, DC

OFFICE OF THE REGISTRAR

GWid : G25346241
Date of Birth: 29-MAR

Date Issued: 17-MAY-2023

Record of: Andrea L Stein

Page: 1

Student Level: Law
Admit Term: Fall 2021

Issued To: ANDREA STEIN
ANDREASTEIN@LAW.GWU.EDU

REFNUM:3701538

Current College(s):Law School
Current Major(s): Law

GEORGE WASHINGTON UNIVERSITY CREDIT:

SUBJ NO	COURSE TITLE	CRDT	GRD PTS
Fall 2021			
Law School			
Law			
LAW 6202	Contracts Maggs	4.00	A
LAW 6206	Torts Tsesis	4.00	B
LAW 6212	Civil Procedure Schaffner	4.00	B+
LAW 6216	Fundamentals Of Lawyering I Mortellaro	3.00	A
Ehrs 15.00	GPA-Hrs 15.00	GPA	3.556
CUM 15.00	GPA-Hrs 15.00	GPA	3.556
THURGOOD MARSHALL SCHOLAR			
TOP 16% - 35% OF THE CLASS TO DATE			
Spring 2022			
Law School			
Law			
LAW 6208	Property Tuttle	4.00	A-
LAW 6209	Legislation And Regulation Roberts	3.00	B
LAW 6210	Criminal Law Braman	3.00	A
LAW 6214	Constitutional Law I Fontana	3.00	B+
LAW 6217	Fundamentals Of Lawyering II Mortellaro	3.00	A
Ehrs 16.00	GPA-Hrs 16.00	GPA	3.604
CUM 31.00	GPA-Hrs 31.00	GPA	3.581
Good Standing			
DEAN'S RECOGNITION FOR PROFESSIONAL DEVELOPMENT			
THURGOOD MARSHALL SCHOLAR			
TOP 16% - 35% OF THE CLASS TO DATE			

********** CONTINUED ON NEXT COLUMN **********

SUBJ NO	COURSE TITLE	CRDT	GRD PTS
Fall 2022			
Law School			
Law			
LAW 6230	Evidence Young	3.00	A+
LAW 6250	Corporations On Gabaldon	4.00	A
LAW 6644	Moot Court - Van Vleck	1.00	CR
LAW 6668	Field Placement Mccoy	3.00	CR
LAW 6671	Government Lawyering Platt	2.00	A+
Ehrs 13.00	GPA-Hrs 9.00	GPA	4.185
CUM 44.00	GPA-Hrs 40.00	GPA	3.717
Good Standing			
GEORGE WASHINGTON SCHOLAR			
TOP 1%-15% OF THE CLASS TO DATE			
Spring 2023			
LAW 6218	Prof Responslbty/Ethic On	2.00	A-
LAW 6400	Administrative Law	3.00	A
LAW 6518	Govt Contracts Overview On	1.00	CR
LAW 6667	Advanced Field Placement	0.00	CR
LAW 6668	Field Placement	3.00	CR
LAW 6676	Mediation/Alternative Disp Res	3.00	B+
Ehrs 12.00	GPA-Hrs 8.00	GPA	3.667
CUM 56.00	GPA-Hrs 48.00	GPA	3.708
Fall 2022			
Law School			
Law			
LAW 6657	Int'L Law Review Note Credits In Progress:	1.00 1.00	----------
Spring 2023			
LAW 6657	Int'L Law Review Note Credits In Progress:	1.00 1.00	----------
Fall 2023			
LAW 6268	Employment Law	2.00	----------
LAW 6362	Adjudicatory Criminl Procedure	3.00	----------
LAW 6380	Constitutional Law II	4.00	----------
LAW 6659	International Law Review	1.00	----------
LAW 6683	College Of Trial Advocacy	3.00	----------
LAW 6711	Civil Access To Justice Clinic	2.00	----------
	Credits In Progress:	15.00	

********** CONTINUED ON PAGE 2 **********

Katie Cloud
Interim University Registrar

This transcript processed and delivered by Parchment

THE GEORGE WASHINGTON UNIVERSITY
WASHINGTON, DC

OFFICE OF THE REGISTRAR

GWid : G25346241
Date of Birth: 29-MAR

Date Issued: 17-MAY-2023

Record of: Andrea L Stein

Page: 2

SUBJ NO	COURSE TITLE	CRDT	GRD	PTS

********** TRANSCRIPT TOTALS **********

	Earned Hrs	GPA Hrs	Points	GPA
TOTAL INSTITUTION	56.00	48.00	178.00	3.708
OVERALL	56.00	48.00	178.00	3.708

########## END OF DOCUMENT ##########

Katie Cloud
Interim University Registrar

This transcript processed and delivered by Parchment

May 25, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

I write with tremendous enthusiasm to recommend Andrea Stein for a clerkship in your chambers. Andrea took my Evidence course in Fall 2022, and was a standout student in class, with on-point comments and a collaborative spirit. She also received one of the two highest grades in the entire 80-person class. I rarely give out an A+, but her standout exam deserved it. She excelled on the multiple choice questions (relatively straightforward applications of evidence law), the hypothetical questions (very complex issue-spotters), and the policy question (which required in-depth application of the law to a real-world issue). It is unusual, to say the least, for a student to do so well on all three types of writing and thinking, especially under tight time pressure.

Impressed by her oral performance in class and her written performance on the exam, I invited Andrea to apply for a position as my research assistant. I have gotten to know her better in that capacity, and have entrusted her with coding highly sensitive qualitative data about people's experiences with civil justice problems. Andrea has been an ideal research assistant because she is excellent both at working independently and at collaborating with her fellow RAs (indeed, I have been pleased to watch her emerge as a gentle leader among the group). I also appreciate that she is willing to ask questions when she does not understand something, and that she has an extremely precise mind and wants to get details right. I am confident that these qualities, which make her a standout RA, would also make her an excellent addition to any chambers. Perhaps even more importantly, I have found that although she takes her work seriously, Andrea does not take herself overly seriously—meaning that not only does she have a sense of humor, but she is wonderful at accepting feedback and constructive criticism. This quality, in particular, has impressed me because I have met so many law students who struggle with it. Andrea does not, and it makes her a real joy to teach and mentor.

I have had the opportunity to talk with Andrea on several occasions about her goals and interests. One of the experiences from which she has learned the most is her work in the U.S. District Court for the District of Columbia, where she has been a Judicial Intern for The Honorable Rudolph Contreras for the past four months. In that capacity, she has cite-checked opinions, written orders, and researched a wide variety of issues, ranging from sentencing to the Americans with Disabilities Act. Andrea has enjoyed the opportunity to engage with a variety of legal questions during the internship, and appreciates the intense intellectual atmosphere of chambers. She will be a summer associate at Holland & Knight, LLP, this summer, but I believe her longer-range plan includes work in the government, for which she will be extremely well-suited. Indeed, her past internships as a law student in addition to her judicial internship were both spent in the federal government; she was in the Scholars Program at the SEC's Enforcement Division, and also worked in the Fraud Section of the Civil Division at the Department of Justice.

Over her time in law school, Andrea has sought out and exceled in many different activities and experiences. For example, she is on the law school's Moot Court Board, is a member of The George Washington International Law Review, and participates in Mock Trial and the Labor and Employment Law Society. She has also received the Dean's Award for Professional Development, and has worked as a Teaching Assistant for Professor Alexander Tsesis in his Torts class. This range of commitments is impressive for its number, but even more so for its range. It has allowed Andrea to cultivate a broad variety of strengths that will serve her well as a lawyer, including her oral advocacy skills (both trial and appellate), her written skills, her analytical skills, her research skills, and her interpersonal skills as a collaborator and negotiator. Andrea's ability to rise to challenges is also evidenced in her GPA, which has risen every semester she has been in law school. Her first semester, she performed solidly enough, with a 3.55 GPA. But this past fall, she received above a 4.0, earning an A+ in Evidence and in Government Lawyering. For this outstanding performance, she was named a George Washington Scholar (ranked in the top 1%–15% of students in her class).

Another reason I recommend Andrea so confidently is that even though she works very hard, her approach is low-key and well-balanced. She can keep a cool head when a situation is intense and is not stymied by setbacks. In sum, Andrea is precisely the sort of clerk I would want in chambers. I am happy to elaborate further if you think it would be useful. My cell number is (650) 862-5194. Please feel free to email or call any time.

Sincerely yours,

Kathryne M. Young
Associate Professor of Law
The George Washington University Law School

May 25, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

Andrea Stein is one of the most gifted and dedicated students I have had the pleasure of teaching, and as her 1L legal writing and Fundamentals of Lawyering professor at GW Law, I strongly endorse her judicial clerkship application. She has demonstrated a gift for legal writing since the first assignment she turned in for our class, yet she has never rested on her laurels; she enthusiastically seeks out opportunities to grow as a writer and aspiring lawyer, and the talents she will bring to your chambers are tremendous.

What impresses me most about Andrea are her sophisticated legal analysis skills and impeccable work ethic. She turned in some of the most substantial paper drafts of anyone in the class, and she poured an incredible amount of energy into perfecting her work. Andrea is also a pleasure to teach; not only is she attentive, punctual, and easy to get along with, she is the most engaged student I ever taught at GW Law. She is seen by her peers as a leader in group exercises, and she asks thoughtful questions and meaningfully contributes to classroom discussions—demonstrating that she deeply engages with the material and is eager to learn. Her efforts have clearly paid off, because during her time as my student, she turned in one of the most impressive student legal memos and briefs in the class: polished, well-cited, and supported by deeply fact-sensitive and legally nuanced arguments.

Andrea's performance has been extraordinary, and she is easily one of the top 10 students I have taught at GW Law. Her achievements are hardly surprising. She has had a fervent desire to practice law for years, and I have no doubt she will earn additional accolades as she continues to use to her impressive legal analysis and writing skills. Her passion and persistence in working in this profession make her an asset to any employer fortunate enough to have her.

Andrea's robust lawyering skills, professionalism, and dedication ensure she will be an incredible addition to your chambers. I recommend, unequivocally, that she be hired as a clerk.

Please reach out to me if you have any questions or would like to discuss Andrea's application further. Thank you.

Sincerely,

Stephen Mortellaro
Visiting Associate Professor, The George Washington University Law School (2021-2022)
Visiting Clinical Assistant Professor
The Catholic University of America Columbus School of Law
(772) 285-5777
mortellaro@law.edu

THE GEORGE WASHINGTON UNIVERSITY
WASHINGTON, DC

ALEXANDER TSESIS
VISITING PROFESSOR OF LAW (2021-2023)
&
PROFESSOR AND SIMON CHAIR IN CONSTITUTIONAL LAW
LOYOLA UNIVERSITY SCHOOL OF LAW-CHICAGO
ATSESIS@LAW.GWU.EDU

Law School

April 3, 2023

Re: Recommendation for Judicial Clerkship
Andrea Stein

To whom it may concern,

I am writing to highly recommend Andrea Stein to be a judicial clerk in you chambers. She is an excellent candidate with a great academic and employment background. Andrea has been both my student and teaching assistant. In my experiences, she has always been diligent, precise, articulate, interested, and engaged. Andrea has a sharp mind with great insights. She is curious to learn and diligent in her efforts. She is capable, willing, and able to understand complex tasks and intricate judicial assignments. She is a creative thinker who exerts her full effort to the task at hand. When necessary, she is wise enough to ask poignant questions necessary for critical comprehension.

She is not only a competent and intelligent person, Andrea is also a role model to other students. Even as a student in my Torts class she asked penetrating questions that helped other students understand assigned cases. Then, the following academic year, as a teaching assistant she was extraordinary in her ability to articulate civil law to students who were enrolled in my Torts class. My courses benefited from her engagement. Andrea was always prepared, eager to learn, willing to clarify her understanding through secondary sources, great at working with a team, and respectful about the rule of law. I enjoyed engaging with her in class and during office hours because she always demonstrated a diligence in her preparation of assignments. She is precise in her understanding of the readings, competent at analyzing doctrine, and capable of articulating key points.

As you'll see from her resume, Andrea has a strong professional background that sets her on a path to success. Her depth of personality and breadth of interests are evident from her work experience. She was ambitious enough to work both for the U.S. Securities and Exchange Commission and the U.S. Department of Justice. Moreover, and she is currently a judicial intern for Judge Contreras of the District Court for the District of Columbia.

Throughout the two years I've known Andrea, she demonstrated a commitment to excellence. I have no doubt that she has the skills necessary, the competence, diligence, and work-ethic it takes to be a great judicial law clerk. She will make a first-rate attorney.

Feel free to contact me with any questions.

Sincerely,

Alexander Tsesis
George Washington University Law School (2021-2023)
Visiting Professor of Law · 202-994-2204 · atsesis@gwu.edu

Loyola University School of Law, Chicago · 312-915-7929 · atsesis@luc.edu
Professor and Raymond & Mary Simon Chair in Constitutional Law

- Most recent book: *Free Speech in the Balance* (Cambridge Univ. Press 2020)

2000 H Street, NW
Washington, DC 20052

ANDREA STEIN

515 22nd St. NW Apt. 315 Washington, DC 20037 | (561) 254-1471
www.linkedin.com/in/andrealaurenstein | andreastein@law.gwu.edu

The attached writing sample is an appellate brief I wrote for my 1L legal research and writing class. I wrote the brief on behalf of the United States. The United States appealed to the Circuit Court and argued that the court should reverse the District Court's decision to grant the Defendant's Motion to Suppress Evidence. The brief analyzes (I) whether the clothing exception is an exigent circumstance under the Fourth Amendment, and (II) whether the clothing exception was lawfully exercised in this case. The appellate brief's cover page, table of authorities, certificate of compliance, and certificate of service have been omitted for the purpose of this writing sample. Additionally, this sample includes minimal edits from my legal research and writing professor.

TABLE OF CONTENTS

STATEMENT OF THE ISSUES 2

STATEMENT OF THE CASE 2

I. PROCEDURAL HISTORY 2

II. STATEMENT OF FACTS 2

III. STANDARD OF REVIEW 4

SUMMARY OF THE ARGUMENT 4

ARGUMENT 6

I. THE CLOTHING EXCEPTION EXISTS AS AN EXIGENT CIRCUMSTANCE UNDER THE FOURTH AMENDMENT BECAUSE IT PROTECTS ARRESTEES FROM SAFETY HAZARDS, IS BASED ON AN OBJECTIVELY REASONABLE STANDARD, AND SAFEGUARDS HUMAN DIGNITY 6

II. OFFICER RODDAR'S EXERCISE OF THE CLOTHING EXCEPTION WAS PROPER BECAUSE THE DEBRIS ON THE GROUND, ROCKY TERRAIN, AND CHILLY WEATHER THREATENED MICHAELS'S SAFETY, AND OFFICER RODDAR DID NOT ENTER THE TRAILER DUE TO A PRETEXT 11

CONCLUSION 16

STATEMENT OF THE ISSUES

1. Under the Fourth Amendment's warrant requirement, does an officer's warrantless entry into a partially clothed arrestee's home, for the purpose of retrieving clothes for the arrestee, constitute an exigent circumstance?
2. Was Officer Roddar's entry into Stefanie Michaels's home to retrieve a shirt and shoes for Michaels, who was only wearing a red bikini on top and socks, a proper use of the clothing exception when there were debris on the ground, a rocky terrain, and chilly weather?

STATEMENT OF THE CASE

I. PROCEDURAL HISTORY

On December 8, 2021, Officer Trinity Roddar of the Ellijay City Police Department arrested Stefanie Michaels for felony possession of a firearm in violation of 18 U.S.C. § 922(g)(1). R. at 3. Michaels was indicted by a grand jury in the United States District Court for the Northern District of Georgia. R. at 12. On December 17, 2021, pursuant to the Federal Rules of Criminal Procedure 12(b)(3)(C), Michaels filed a Motion to Suppress Evidence to exclude the evidence seized by Officer Roddar while inside Michaels's home. R. at 13. The District Court granted the motion to suppress on February 25, 2022. R. at 19. On February 28, 2022, the Government filed Notice of Appeal to this Court regarding the District Court's order granting Michaels's Motion to Suppress Evidence. R. at 20.

II. STATEMENT OF FACTS

On December 8, 2021, at approximately 4:30 p.m., Officers Trinity Roddar and Alex Sanchez responded to a 911 call from Nora Sheehan in the Mountainview community of Ellijay, Georgia. R. at 3. Sheehan claimed that an explosion erupted from Michaels's trailer home which

she shared with Lewis Ricciardo. R. at 5. Officer Roddar knew of Michaels and her involvement in previous drug activities. R. at 3. She suspected that the sound could have been from an explosion fueled by chemicals to manufacture methamphetamine. *Id.* To get to the trailer, officers parked their car on the community's only drivable road and walked down a heavily wooded trail. R. at 3, 5. The trail was unpaved, narrow, very rocky, and uneven. R. at 3, 4. When the officers responded to the call, the weather was a chilly 51-degrees Fahrenheit, and as it was getting dark, it was dropping quickly. R. at 5, 10. Within the hour of the 911 call, the temperature dropped five degrees. R. at 10.

After walking about 900 feet, Officer Roddar recognized Michaels standing amidst the contents of the exploded trailer. R. at 4. Officer Roddar told Michaels to not move. R. at 6. One of the trailer's walls had blasted open, leaving dangerous bottles containing chemicals and debris scattered on the ground. R. at 4. While looking at the scene, Officer Roddar briefly expressed disapproval of the explosion's mess. R. at 5. After Officer Roddar recognized bottles containing chemicals needed to manufacture methamphetamine, she believed there was probable cause to arrest Michaels and Ricciardo for violating federal drug laws. R. at 4.

At the time of the arrest, Michaels was not wearing a shirt or shoes. *Id.* She was only wearing a red bikini top merely held up by a tie around her neck and socks with rubber grippers on the soles. R. at 4, 7. With the temperature quickly dropping and Michaels having to walk up the long, rocky path in the dark, Officer Roddar believed that Michaels needed proper clothing and footwear to protect her body from catching a chill and her feet from injury. R. at 4. Also, Officer Roddar thought Michaels would not want to walk in public without a shirt. *Id.*

Officer Roddar, under the belief that entering the trailer to obtain shoes and a shirt for Michaels was a sufficient exigency, entered Michaels's trailer. *Id.* Once inside the trailer, Officer

Roddar proceeded directly to the trailer's only bedroom to promptly retrieve clothes. *Id.* Once she entered the bedroom, she saw a loaded nine-millimeter handgun lying in plain view on the floor. *Id.* Since Officer Roddar knew Michaels was a convicted felon, she knew it was illegal for Michaels to possess a firearm, and she seized the gun. *Id.* After seizing the gun, Officer Roddar retrieved a sweater and a pair of shoes from Michaels's ajar closet and swiftly left the trailer. *Id.* Michaels put on the clothing items, and the officers and arrestees made the dark, chilly trek back to the patrol car. *Id.*

III. STANDARD OF REVIEW

When reviewing a defendant's motion to suppress evidence, this Court reviews the District Court's legal conclusions and its application of law to facts *de novo*. *See United States v. Hollis*, 780 F.3d 1064, 1068 (11th Cir. 2015); *United States v. Alexander*, 935 F.2d 1406, 1408 (11th Cir. 1988). The motion standard for a motion to suppress evidence is pursuant to the Federal Rules of Criminal Procedure 12(b)(3)(C). Therefore, if the search or seizure was unlawful under the Fourth Amendment, any evidence obtained from the search must be excluded. *See Wong Sun v. United States*, 371 U.S. 471, 485 (1963). The Government bears the burden to prove by the preponderance of the evidence that a warrantless search was reasonable. *See United States v. Freire*, 710 F.2d 1515, 1519 (11th Cir. 1983); *United States v. Waldrop*, 404 F.3d 365, 368 (5th Cir. 2005).

SUMMARY OF THE ARGUMENT

This is a case that allows the Eleventh Circuit to hold that the clothing exception is an exigent circumstance under the Fourth Amendment. The implication of this holding will allow officers to protect arrestees from the various safety and dignitary harms posed to them. The clothing exception fits into the exigency doctrine because it aims to protect individuals from

safety hazards. A plurality of courts has correctly authorized the clothing exception because upon their arrests, unclothed arrestees may be exposed to dangers on the ground, including debris or unsafe terrain, or adverse weather, including cold temperatures. *See United States v. Gwinn*, 219 F.3d 326, 333 (4th Cir. 2000). To prevent an arrestee from sustaining injuries on his feet or getting ill because of his lack of clothing, an officer's ability to exercise the clothing exception will ultimately keep the arrestee safe.

Like other exigencies, the clothing exception will be exercised only when there is an objectively reasonable basis to enter a home. *See Michigan v. Fisher*, 558 U.S. 45, 47 (2009). The clothing exception does not have to be exercised solely in life-threatening instances because not all objectively reasonable bases are life-threatening. *See id.* at 49. Moreover, the clothing exception protects arrestees's human dignity. Courts have authorized officers to exercise the clothing exception to protect arrestees from the possible dignitary harm of being partially clothed or unclothed in public. *See United States v. Nascimento*, 491 F.3d 25, 50 (1st Cir. 2007). Also, the legal system has typically equated human dignity with being clothed. *See Tagami v. City of Chicago*, 875 F.3d 375, 377 (7th Cir. 2017).

In this case, the factual circumstances indicate that Officer Roddar properly exercised the clothing exception. When approached by the police, Michaels was wearing no shirt or shoes and was standing amidst debris from the trailer explosion. To return to the patrol car, Michaels would have to walk 900 feet on a rocky, unpaved trail. Both the explosion debris and the trail posed a risk to Michaels's feet. At the time of the arrest, the weather was about 50-degrees Fahrenheit and dropping quickly. On the walk to the patrol car, Michaels was going to be exposed to the weather for an extended period of time. Since Michaels was not wearing a proper shirt, there was a risk of her catching a chill. The safety hazards created from the ground and weather created an

objectively reasonable basis for Officer Roddar to exercise the clothing exception. Since there was an objectively reasonable basis for Officer Roddar to enter the home and the record indicates her entry was only to obtain clothing, Office Roddar did not enter pretextually. For the foregoing reasons, this Court should reverse the District Court's ruling granting Michaels's Motion to Suppress.

ARGUMENT

The District Court erred in granting Michaels's Motion to Suppress because the clothing exception is an exigent circumstance under the Fourth Amendment. Further, the factual circumstances, including the terrain and adverse weather, indicate that Officer Roddar properly exercised the clothing exception. Although the circuits are split as to whether the clothing exception exists under the Fourth Amendment, this court should join the plurality of circuits that have held that the clothing exception is an exigency because it protects arrestees from safety hazards and upholds human dignity. Officer Roddar lawfully exercised the clothing exception because the ground and weather posed an objective safety threat to Michaels. Therefore, this Court should reverse the District Court's ruling granting Michaels's Motion to Suppress Evidence.

I. THE CLOTHING EXCEPTION EXISTS AS AN EXIGENT CIRCUMSTANCE UNDER THE FOURTH AMENDMENT BECAUSE IT PROTECTS ARRESTEES FROM SAFETY HAZARDS, IS BASED ON AN OBJECTIVELY REASONABLE STANDARD, AND SAFEGUARDS HUMAN DIGNITY.

The Fourth Amendment allows "the right of people to be secure in their … houses … against unreasonable searches and seizures." U.S. Const. amend. IV. Police officers are allowed to enter a home if they have a search warrant or if an exigent circumstance exists. *See Steagald v. United States*, 451 U.S. 204, 212 (1981). Exigent circumstances under the Fourth Amendment are objective reasons for police officers to enter a home without a warrant. *See Brigham City v.*

Stuart, 547 U.S. 398, 403 (2006). Examples of exigent circumstances include the need of police officers to render emergency assistance or aid, pursue a fleeing felon, or prevent the imminent destruction of evidence. *See Kentucky v. King*, 563 U.S. 452, 460 (2011). A foundational element of the exigency doctrine is that it aims to protect individuals from threats to safety. *See Fisher*, 558 U.S. at 47 (quoting *Brigham*, 547 U.S. at 403).

A circuit split has developed as to whether the clothing exception is an exigent circumstance under the Fourth Amendment. The United States Court of Appeals for the First, Second, Fourth, Fifth, and Tenth Circuits have correctly recognized that the Fourth Amendment permits an officer's warrantless entry into a home to obtain clothes for an arrestee. *See Nascimento*, 491 F.3d at 50; *United States v. Di Stefano*, 555 F.2d 1094, 1101 (2d Cir. 1977); *Gwinn*, 219 F.3d at 333; *United States v. Wilson*, 306 F.3d 231, 241 (5th Cir. 2002); *United States v. Butler*, 980 F.2d 619, 621 (10th Cir. 1992). The United States Court of Appeals for the Sixth and Ninth Circuits have erroneously held that the clothing exception does not exist. *See United States v. Kinney*, 638 F.2d 941, 945 (6th Cir. 1981); *United States v. Whitten*, 706 F.2d 1000, 1015 (9th Cir. 1983).

The clothing exception fits well in the exigent circumstances doctrine because it closely follows the emergency aid exception. The emergency aid exception provides that officers are allowed to enter homes to "assist persons who are seriously injured or threatened with such injury." *See Fisher*, 558 U.S. at 47 (quoting *Brigham City*, 547 U.S. at 403). Like the emergency aid exception, the clothing exception justifies officers to enter homes to retrieve clothing for arrestees who are threatened with possible injuries. *See Gwinn*, 219 F.3d at 333. The clothing and emergency aid exceptions share the common foundation that officers are permitted to enter

homes with the goal of protecting an individual, whether that be an occupant or an arrestee. *See id.*

Courts have held that police officers are authorized to retrieve clothing for an arrestee when he is exposed to safety hazards like adverse weather, debris on the ground, or an unsafe terrain. *See Gwinn*, 219 F.3d at 333 (holding that arresting officer was authorized to enter into defendant's home to obtain his shirt and boots because there was a substantial risk of defendant sustaining cuts or other injuries to his bare feet and a substantial risk of chill if defendant did not wear a shirt); *Wilson*, 306 F.3d at 241 (determining that the threat of injury from walking on public sidewalks and streets placed a duty on law enforcement officers to obtain appropriate clothing for arrestee who was only in his underwear).

If this Court does not allow police officers to exercise the clothing exception, then an indefinite number of arrestees will be subject to bodily injuries. Without the clothing exception, officers would not be able to procure footwear for an arrestee even if the arrestee had to walk across sharp objects to get to a patrol car. In *Butler*, upon his arrest, the barefoot defendant would have had to walk across glass, beer cans, and other litter. *See Butler*, 980 F.2d at 621. This created a "legitimate and significant" safety threat to the defendant; therefore, exercising the clothing exception to obtain his shoes was necessary to protect him from sustaining possible abrasions to his feet. *See id.* The clothing exception aims to protect arrestees like the defendant in *Butler* from threatening ground hazards.

Further, if police officers cannot secure clothing for arrestees, then they will be exposed to inclimate or adverse weather without proper clothing. The First and Second Circuits have found that police officers are justified in exercising the clothing exception for this reason. *See Nascimento,* 491 F.3d at 50 (holding that the New England climate in December justified

officers's entry into defendant's home, who was only wearing his underwear, to have a more complete wardrobe); *United States v. Titus*, 445 F.2d 577, 579 (2d Cir. 1971) (finding that FBI agents were bound to find clothing for nude defendant before taking him to the agency's headquarters on a cold December night). Neither *Nascimento* nor *Titus* explicitly mention the safety risk of being unclothed in cold weather conditions; however, *Gwinn* found that cold weather threatened the defendant with a risk of catching a chill which warranted the officer's use of the clothing exception. *See Gwinn*, 219 F.3d at 333.

The clothing exception, like the emergency aid exception, relies on an "objectively reasonable basis" for police entry into a home that mitigates concerns of pretext, abuse of discretion, or error. *See Fisher*, 558 U.S. at 47. In *Brigham City*, the Court found that there was an "objectively reasonable basis for believing that the injured [person] … might need help." *Brigham City*, 547 at 406. In *Brigham City*, officers who were outside a home witnessed a juvenile punch an adult in the face through a window. *See id.* at 401. The adult recoiled to the sink and spat blood. *See id.* at 406. Officers's exercise of the emergency aid exception was justified because a punch to the face was an objective reason for officers to believe that the individual needed help. *See id.*

The clothing exception also applies in this way. Just as when applying the emergency aid doctrine, officers can properly exercise the clothing exception not based on their subjective interpretation of a danger, rather an objective reason that procuring clothing might protect the arrestee from danger. *See Gwinn*, 219 F.3d at 334 (finding that the officer was presented with an objective need to procure footwear and a shirt to protect defendant from cutting his feet and of a chill). If the clothing exception is adopted under the exigency doctrine, it does not need to be narrowed to only being exercised when there is an extreme, life-threatening, possible injury to an

arrestee because not all objectively reasonable hazards are life-threatening. *See Fisher*, 558 U.S. at 49 (citing *Brigham City*, 547 U.S. at 406) (discussing officers's entry in *Brigham City*, to help the individual punched in the face, was authorized even though the injury was not life-threatening).

While it is not always guaranteed that the clothing exception will be exercised on this standard, the legal system is equipped to find when an officer's entry is due to pretext, abuse of discretion, or error by looking at whether the basis for entry was objective and the record of the officer's actions. *See United States v. Casper*, 34 F. Supp. 3d 617, 624 (E.D. Va. 2014) (holding that the officer's entry into defendant's motel room to procure fully-dressed defendant a coat, when he was only going to be exposed to mild weather for a short period of time, was pretextual because there was not an objective need for the coat); *Gwinn*, 219 F.3d at 334 (finding no evidence from the record of a pretextual entry when the officer entered into defendant's home to procure a shirt and shoes for defendant). Further, the probability for a police officer exercising the clothing exception based on pretext, abuse of discretion, or error is low. None of the leading circuit court cases that hold on the clothing exception have found entry due to pretext, abuse of discretion, or error. *See Nascimento*, 491 F.3d at 50; *Di Stefano*, 555 F.2d at 1101; *Gwinn*, 219 F.3d at 333; *Wilson*, 306 F.3d at 241; *Kinney*, 638 F.2d at 945; *Whitten*, 706 F.2d at 1015; *Butler*, 980 F.2d at 621.

An officer's exercise of the clothing exception upholds an arrestee's human dignity because what he is wearing upon his arrest could differ from what he would want to wear in public. In *Nascimento*, the First Circuit held that officers should be able to retrieve clothing for an arrestee because it favors an arrestee's human dignity. *See Nascimento*, 491 F.3d at 50 (finding that officers upheld defendant's human dignity when they entered into defendant's home

to retrieve clothing for defendant, who was only in his underwear, because individuals do not typically wear underwear in public). The Sixth Circuit has erroneously and implicitly held that dignitary harm does not merit exercising the clothing exception. *See Kinney*, 638 F.2d at 945. In *Kinney*, the court held that the defendant's partially clothed condition *in front of a crowd of spectators* did not merit exercising the clothing exception. *See id.* (emphasis added). However, the defendant in *Kinney* was not unclothed; rather, his shirt was unbuttoned. *See id.* at 943. Therefore, the Sixth Circuit's holding does not properly illustrate the substantial need of the clothing exception for human dignity concerns.

Further, many states and cities have enforced public indecency statutes and public nudity ordinances. *See Barnes v. Glen Theatre, Inc.*, 501 U.S. 560, 560 (1991); *Tagami*, 875 F.3d at 377. The lawsuit in *Tagami* involved a Chicago public nudity ordinance which made intentional, public exposure of genitals or breasts illegal. *See Tagami*, 875 F.3d at 377. While public nudity ordinances are typically created to prohibit individuals from intentionally exposing themselves, their purposes shed light on how the legal system generally equates human dignity with being clothed. If this Court chooses not to adopt the clothing exception, every time an unclothed individual is arrested, and an officer cannot retrieve clothing for her, the arrestee's body will be forcefully exposed in a manner that is inconsistent to typical public decency. Therefore, this Court should adopt the clothing exception as an exigent circumstance under the Fourth Amendment because it vitally protects the arrestee from safety hazards and dignitary harm.

II. OFFICER RODDAR'S EXERCISE OF THE CLOTHING EXCEPTION WAS PROPER BECAUSE THE DEBRIS ON THE GROUND, ROCKY TERRAIN, AND CHILLY WEATHER THREATENED MICHAELS'S SAFETY, AND OFFICER RODDAR DID NOT ENTER THE TRAILER DUE TO A PRETEXT.

The clothing exception applies when officers need to procure footwear for arrestees to protect them from debris and glass on the ground or from the hazards posed by public sidewalks

and roads. *See Butler*, 980 F.2d at 622 (finding that glass, beer cans, and other debris authorized officers to exercise the clothing exception to obtain footwear for the barefoot defendant because the hazards on the ground created a "legitimate and significant" threat to defendant's feet); *Gwinn*, 219 F.3d at 333 (holding that officer's entry into defendant's home to obtain his boots and a shirt was lawful because there was a substantial risk of defendant sustaining cuts to his feet following his arrest); *Wilson*, 306 F.3d at 241 (authorizing officers to enter arrestee's home and exercise the clothing exception because even though arrestee was not surrounded by broken glass on the ground, the hazards of public sidewalks and streets posed enough of a threat of injury to arrestee's feet).

The clothing exception is lawfully exercised in instances where officers need to obtain clothes for an arrestee to protect him from weather conditions, including cold weather. *See Nascimento*, 491 F.3d at 50 (finding that the New England climate on a December evening justified officers obtaining a more complete wardrobe for defendant, who was clad only in his underwear); *Titus*, 445 F.2d at 579 (holding that FBI agents properly exercised the clothing exception because they were bound to find defendant clothing to protect him from the weather on a cold, December night rather than take him to FBI headquarters nude); *Casper*, 34 F. Supp. 3d at 624 (determining that it was unlawful for officers to exercise the clothing exception to obtain defendant's coat because defendant was fully clothed, and the weather would not have posed a risk of injury to defendant on his brief walk from his motel room to the police car).

Like other exigencies, the clothing exception applies when officers do not enter the home because of a pretext. *See Gwinn*, 219 F.3d at 332 (justifying officer's reentry into defendant's home to exercise the clothing exception because there was no suggestion from the record that the officer entered due to a pretext nor was the officer there for any purpose other than finding

defendant boots and a shirt); *Butler*, 980 F.2d at 622 (finding that a "legitimate and significant" safety threat to barefoot defendant from broken glass on the ground *and* no evidence in the record that the concern for defendant's health and safety was pretextual meant that officers lawfully exercised the clothing exception) (emphasis added). If an officer exercises the clothing exception when there is not an objectively reasonable basis for doing so, the entry could point to a pretext. *See Casper*, 34 F. Supp. 3d at 624 (determining that officer's exercise of the clothing exception, to obtain a coat, was pretextual because defendant was wearing shoes, blue jeans, and a shirt, and defendant would not need a coat in mild mid-50-degree Fahrenheit weather during his brief walk from his motel room to patrol car).

Here, the contents of the exploded trailer and the narrow, very rocky, uneven, 900-foot trail posed a risk of injury to Michaels's feet. When Officer Roddar approached Michaels, she was standing amidst scattered debris from the exploded trailer and would possibly have to walk across these contents when going to the patrol car. In *Butler*, the court found that glass, beer cans, and debris created a "legitimate and significant" safety risk to the barefoot defendant who would have had to walk across those objects. *See Butler*, 980 F.2d at 622. Therefore, to prevent defendant's feet from sustaining abrasions, the officers were authorized to enter the defendant's home to procure him footwear. *See id.* Like the officers in *Butler*, Officer Roddar was authorized to retrieve shoes for Michaels to prevent her feet from sustaining abrasions when walking across the explosion's debris. While the defendant in *Butler* was barefoot and Michaels was wearing socks, Michaels's socks would not properly protect her feet from sustaining cuts from possibly sharp debris that could pierce the socks's cloth. *See id.* at 21.

Not only did the contents from the explosion pose a risk of injury to Michaels's feet, but the 900-foot trail also threatened Michaels's safety. In the arrest report, Officer Roddar described

the trail to get to Michaels's trailer as heavily wooded, very rocky, and uneven. In fact, Sheehan, when she first led officers down the trail, warned the officers to watch their step. In *Wilson*, the court held that the typical hazards from walking on public sidewalks and streets without shoes created enough of a safety hazard to allow officers to retrieve footwear for the defendant. *See Wilson*, 306 F.3d at 241. In this case, the hazard posed to Michaels's feet was greater than the hazard posed to the *Wilson* defendant's feet. To get back to the patrol car, Michaels was going to have to walk on an *unpaved* trail in a heavily wooded area as it was getting dark. It is clear that the trail posed a substantial safety hazard to Michaels's feet because it was probable that she would step on sharp rocks and branches and likely sustain cuts. While Michaels was wearing socks, the socks undoubtedly would not protect her feet from when she stepped on sharp objects like a pair of shoes would. Therefore, Officer Roddar's exercise of the clothing exception to procure shoes for Michaels was justified because the rocky trail posed a substantial safety threat to her feet.

Further, Michaels was susceptible to catching a chill on the walk back to the patrol car because the temperature was already chilly and dropping quickly. In *Nascimento* and *Titus*, the courts authorized officers's entries to obtain clothing to protect the defendants from the cold weather. *See Nascimento*, 491 F.3d at 50; *Titus*, 445 F.2d at 579. While the defendant in *Nascimento* was clad only in his underwear, and the defendant in *Titus* was nude, Michaels's small, red bikini top and shorts were not enough to keep her warm and prevent her from catching a chill on the walk back to the patrol car. *See Nascimento*, 491 F.3d at 50; *Titus*, 445 F.2d at 579. In fact, when comparing body coverage of Michaels and the *Nascimento* defendant, Michaels's shorts comparatively cover her body like a pair of men's underwear would cover the *Nascimento* defendant. Therefore, Michaels's small bikini top would not add much more coverage to the total

surface area of her body compared to the *Nascimento* defendant. While both *Nascimento* and *Titus* took place in more northern and likely chillier settings, the weather in this case still posed an objective safety risk because Michaels was going to spend a prolonged amount of time exposed to the chilly weather, without sunlight, when walking back to the patrol car. Therefore, Officer Roddar's entry into Michaels's home was justified because she needed to retrieve a top that kept Michaels protected from the chilly, dropping temperatures.

Officer Roddar did not enter Michaels's home pretextually despite her expressing slight contempt for the area surrounding the home and knowing of Michaels's record. The entry was not pretextual because the safety hazards from the explosion's debris, rocky terrain, and chilly weather created an objectively reasonable basis to enter the home. In *Casper*, the arresting officer's exercise of the clothing exception was unreasonable because the weather was relatively mild; the defendant was only going to be exposed to the weather briefly while walking from his motel room to the patrol car; and the defendant was already clothed in shoes, blue jeans, and a shirt. *See Casper*, 34 F. Supp. 3d at 64. Therefore, the officer's exercise of the clothing exception to obtain a coat for the defendant was clearly due to a pretext. In this case, unlike *Casper*, Officer Roddar's exercise of the clothing exception was reasonable because the weather was chilly and dropping, Michaels would be exposed to the weather for a prolonged period of time during the 900-foot walk back to the patrol car, and Michaels was wearing no shirt or shoes. These factual circumstances indicate that the entry was not due to a pretext.

While Officer Roddar previously knew of Michaels's criminal history, there is no suggestion from the record that she entered the trailer for any purpose other than quickly obtaining clothes for Michaels. In fact, Officer Roddar already had probable cause to arrest Michaels when she saw the bottles filled with chemicals used to manufacture methamphetamine.

When Officer Roddar entered the trailer, she moved swiftly through the home, only seized evidence that was in plain view directly in front of her, and retrieved clothing only from an ajar closet. She did not open any drawers or doors. The objectively reasonable basis for Michaels's need for clothing and Officer Roddar's behavior in the trailer indicate that she did not enter pretextually. Officer Roddar's exercise of the clothing exception was justified because debris from the explosion, rocky trail, and cold weather posed an objective safety risk to Michaels, and Officer Roddar did not enter the trailer as a pretext.

CONCLUSION

For the foregoing reasons, this Court should reverse the District Court's decision to grant Michaels's Motion to Suppress Evidence.

Applicant Details

First Name	**Logan**
Middle Initial	**D**
Last Name	**Stein**
Citizenship Status	**U. S. Citizen**
Email Address	**lstein9@law.gwu.edu**
Address	**Address** Street **1800 N oak St, Apt 1015** City **Arlington** State/Territory **Virginia** Zip **22209** Country **United States**
Contact Phone Number	**7194875500**

Applicant Education

BA/BS From	**Colorado State University**
Date of BA/BS	**May 2020**
JD/LLB From	**The George Washington University Law School** **https://www.law.gwu.edu/**
Date of JD/LLB	**May 19, 2024**
Class Rank	**33%**
Law Review/Journal	**Yes**
Journal(s)	**Federal Circuit Bar Journal**
Moot Court Experience	**Yes**
Moot Court Name(s)	**GW First Year Moot Court Competition**

Bar Admission

Prior Judicial Experience

Judicial Internships/ Externships	**Yes**
Post-graduate Judicial Law Clerk	**No**

Specialized Work Experience

Recommenders

Tuttle, Robert
rtuttle@law.gwu.edu
(202) 686-7047
Lerner, Renée
rlerner@law.gwu.edu
(703) 528-8155
Wong, Candice
candice.wong@usdoj.gov
202-815-8549

This applicant has certified that all data entered in this profile and any application documents are true and correct.

Logan Stein
1800 N Oak St. Apt. 1015, Arlington, VA | (719) 487-5500 • Lstein9@law.GWU.edu

June 5, 2023

The Honorable Jamar K. Walker
600 Granby St.,
Norfolk, VA 23510

Dear Judge Walker,

I am a law student at The George Washington University Law School and will be graduating in May 2024. I am writing to apply for a clerkship in your chambers for the 2024 - 2025 term. I have attached a resume, a transcript, and a writing sample. Enclosed as well are recommendations from Professors Tuttle, Professor Lerner, and Chief Assistant U.S. Attorney Candice Wong. Thank you for your time and consideration.

Respectfully,

Logan Stein

Logan Stein

1800 N Oak St. Apt. 1015 Arlington, VA | (719) 487-5500 • Lstein9@law.GWU.edu

EDUCATION

The George Washington University Law School — **Washington D.C.**
J.D., Thurgood Marshall Scholar (top 16-35%), GPA - 3.6 — Expected May 2024
Journal: Fed. Cir. Bar Journal Member
Activities: Mock Trial Board Assistant V.P. of Internal Training; Dean's Recognition for Professional Development; Research Assistant (Professor Robert Tuttle)

Colorado State University — **Fort Collins, CO**
B.A., *magna cum laude*, Sociological Criminology; Minor in Legal Studies — May 2020
Honors: Bob Lawrence Gateway to Law School Scholarship (2019- 2020); Dean's List (2016 -2020)

EXPERIENCE

Commonwealth's Attorney's Office — **Arlington, VA**
Summer Legal Intern - ThirdYear Practice Certificate — May 2023 - Current
Spring Legal Intern — Jan. 2023 - May 2023

- Drafted memos and motions on behalf of the Commonwealth in prosecution cases
- Analyzed case law and statutes to formulate arguments in court
- Assisted prosecutors in trial preparations and all stages of litigation

US Attorney's Office of D.C. — **Washington D.C.**
Summer Legal Intern - Violence reduction and trafficking offenses — Jun. 2022 - Aug. 2022
Fall Legal Intern - Fraud, Public Corruption, and Civil Rights — Sept. 2022 - Dec. 2022

- Researched legal issues while assisted AUSAs in litigation
- Drafted memos and motions to submit on behalf of the U.S. government to local and federal courts
- Interpreted federal and local statutes for charging and sentencing

Colorado State University Housing — **Fort Collins, CO**
Eco Leader; Community Coordinator — Aug. 2018 - May 2020

- Developed and facilitated educational campaigns for up to 950 recipients
- Wrote proposals for community events and budget allocation
- Developed and facilitated educational, social, and awareness events for campus community
- Responded on-call and drafted incident reports on roommate disputes, maintenance issues, and crisis situations

Fort Collins Public Defenders — **Fort Collins, CO**
Investigative Intern — Aug. 2019 - Dec. 2019

- Reviewed discover materials and communicated case status progress to client
- Investigated factual evidence included in discovery materials and external sources
- Interviewed witnesses and wrote summary memoranda to assist investigators and attorneys

District Court of Colorado - 8th Judicial — **Fort Collins, CO**
Judicial Intern - Magistrate Kent Spangler — Apr. 2019 - Aug. 2019

- Drafted orders, updated case files, and conducted statistical analysis on court efficiencies
- Facilitated Indian Child Welfare Act communication with tribal representatives
- Assisted in preparation of weekly dockets and observed courtroom proceeding

COMMUNITY SERVICE

Bread For the City, *Volunteer* (2021) — **Washington, D.C.**

- Assisted in sorting food materials and packing grocery bags for in-need members of the community
- Directed distribution efforts of grocery bags while abiding by COVID-19 protocol

Special Needs Peer Partner Program, *Mentor* (2015 - 2016) — **Colorado Springs, CO**

- Assisted special needs high school students in completing assignments and non-academic activities

THE GEORGE WASHINGTON UNIVERSITY

WASHINGTON, DC

OFFICE OF THE REGISTRAR

GWid : G29608111
Date of Birth: 14-OCT

Date Issued: 06-JUN-2023

Record of: Logan D Stein

Page: 1

Student Level: Law
Admit Term: Fall 2021

Issued To: LOGAN STEIN
LSTEIN9@LAW.GWU.EDU

REFNUM:5694209

Current College(s):Law School
Current Major(s): Law

GEORGE WASHINGTON UNIVERSITY CREDIT:

SUBJ NO	COURSE TITLE	CRDT	GRD PTS
Fall 2021			
Law School			
Law			
LAW 6202	Contracts Maggs	4.00	A-
LAW 6206	Torts Tsesis	4.00	A-
LAW 6212	Civil Procedure Peterson	4.00	A-
LAW 6216	Fundamentals Of Lawyering I Mortellaro	3.00	B+
Ehrs 15.00 GPA-Hrs 15.00 GPA 3.600			
CUM 15.00 GPA-Hrs 15.00 GPA 3.600			
THURGOOD MARSHALL SCHOLAR			
TOP 16%-35% OF THE CLASS TO DATE			
Spring 2022			
Law School			
Law			
LAW 6208	Property Tuttle	4.00	A-
LAW 6209	Legislation And Regulation Roberts	3.00	A-
LAW 6210	Criminal Law Braman	3.00	B+
LAW 6214	Constitutional Law I Fontana	3.00	B
LAW 6217	Fundamentals Of Lawyering II Mortellaro	3.00	B+
Ehrs 16.00 GPA-Hrs 16.00 GPA 3.417			
CUM 31.00 GPA-Hrs 31.00 GPA 3.505			
Good Standing			
DEAN'S RECOGNITION FOR PROFESSIONAL DEVELOPMENT			
THURGOOD MARSHALL SCHOLAR			
TOP 16%-35% OF THE CLASS TO DATE			

********** CONTINUED ON NEXT COLUMN **********

SUBJ NO	COURSE TITLE	CRDT	GRD PTS
Fall 2022			
Law School			
Law			
LAW 6360	Criminal Procedure Lerner	3.00	A+
LAW 6435	Trade&Sustainabledevelpmn t Law Bolin	2.00	A
LAW 6518	Gov. Contracts Overview On Tillipman	1.00	CR
LAW 6668	Field Placement Mccoy	3.00	CR
LAW 6671	Government Lawyering Platt	2.00	A
Ehrs 11.00 GPA-Hrs 7.00 GPA 4.143			
CUM 42.00 GPA-Hrs 38.00 GPA 3.623			
Good Standing			
THURGOOD MARSHALL SCHOLAR			
TOP 16%-35% OF THE CLASS TO DATE			
Spring 2023			
LAW 6218	Professional Responslbty/Ethic	2.00	A-
LAW 6230	Evidence	4.00	A
LAW 6380	Constitutional Law II	4.00	B
LAW 6667	Advanced Field Placement	0.00	CR
LAW 6668	Field Placement	3.00	CR
Ehrs 13.00 GPA-Hrs 10.00 GPA 3.533			
CUM 55.00 GPA-Hrs 48.00 GPA 3.604			
Good Standing			
THURGOOD MARSHALL SCHOLAR			
TOP 16%-35% OF THE CLASS TO DATE			
Fall 2022			
Law School			
Law			
LAW 6657	Fed Circuit Bar Jrnl Note	1.00	----------
	Credits In Progress:	1.00	
Spring 2023			
LAW 6657	Fed Circuit Bar Jrnl Note	1.00	----------
	Credits In Progress:	1.00	

********** CONTINUED ON PAGE 2 **********

Katie Cloud
Interim University Registrar

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THE GEORGE WASHINGTON UNIVERSITY
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GWid : G29608111
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Record of: Logan D Stein

Page: 2

SUBJ	NO	COURSE TITLE	CRDT	GRD	PTS
Fall 2023					
LAW	6232	Federal Courts	3.00		
LAW	6234	Conflict Of Laws	3.00		
LAW	6362	Adjudicatory Criminl Procedure	3.00		
LAW	6378	Selected Topics In Crim. Law	3.00		
LAW	6652	Legal Drafting	2.00		
LAW	6660	Federal Circuit Bar Journal	1.00		
		Credits In Progress:	15.00		

********** TRANSCRIPT TOTALS **********

	Earned Hrs	GPA Hrs	Points	GPA
TOTAL INSTITUTION	55.00	48.00	173.00	3.604
OVERALL	55.00	48.00	173.00	3.604

########## END OF DOCUMENT ##########

Katie Cloud
Interim University Registrar

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Office of the Registrar
THE GEORGE WASHINGTON UNIVERSITY
Washington, DC 20052

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DESIGNATION OF CREDIT

All courses are taught in semester hours.

TRANSFER CREDIT

Transfer courses listed on your transcript are bonafide courses and are assigned as advanced standing. However, whether or not these courses fulfill degree requirements is determined by individual school criteria. The notation of TR indicates credit accepted from a postsecondary institution or awarded by AP/IB exam.

EXPLANATION OF COURSE NUMBERING SYSTEM
All colleges and schools beginning Fall 2010 semester:

1000 to 1999	Primarily introductory undergraduate courses.
2000 to 4999	Advanced undergraduate courses that can also be taken for graduate credit with permission and additional work.
5000 to 5999	Special courses or part of special programs available to all students as part of ongoing curriculum innovation.
6000 to 6999	For master's, doctoral, and professional-level students; open to advanced undergraduate students with approval of the instructors and the dean or advising office.
8000 to 8999	For master's, doctoral, and professional-level students.

All colleges and schools except the Law School, the School of Medicine and Health Sciences, and the School of Public Health and Health Services before Fall 2010 semester:

001 to 100	Designed for freshman and sophomore students. Open to juniors and seniors with approval. Used by graduate students to make up undergraduate prerequisites. Not for graduate credit.
101 to 200	Designed for junior and senior students. With appropriate approval, specified courses may be taken for graduate credit by completing additional work.
201 to 300	Primarily for graduate students. Open to qualified seniors with approval of instructor and department chair. In School of Business, open only to seniors with a GPA of 3.00 or better as well as approval of department chair and dean.
301 to 400	Graduate School of Education and Human Development, School of Engineering and Applied Science, and Elliott School of International Affairs – Designed primarily for graduate students. Columbian College of Arts and Sciences – Limited to graduate students, primarily for doctoral students. School of Business – Limited to doctoral students.
700s	The 700 series is an ongoing program of curriculum innovation. The series includes courses taught by distinguished University Professors.
801	This number designates Dean's Seminar courses.

The Law School
Before June 1, 1968:

100 to 200	Required courses for first-year students.
201 to 300	Required and elective courses for Bachelor of Laws or Juris Doctor curriculum. Open to master's candidates with approval.
301 to 400	Advanced courses. Primarily for master's candidates. Open to LL.B or J.D. candidates with approval.

After June 1, 1968 through Summer 2010 semester:

201 to 299	Required courses for J.D. candidates.
300 to 499	Designed for second- and third-year J.D. candidates. Open to master's candidates only with special permission.
500 to 850	Designed for advanced law degree students. Open to J.D. candidates only with special permission.

School of Medicine and Health Sciences and
School of Public Health and Health Services before Fall 2010 semester:

001 to 200	Designed for students in undergraduate programs.
201 to 800	Designed for M.D., health sciences, public health, health services, exercise science and other graduate degree candidates in the basic sciences.

CORCORAN COLLEGE OF ART + DESIGN

The George Washington University merged with the Corcoran College of Art + Design, effective August 21, 2014. For the pre-merger Corcoran transcript key, please visit http://go.gwu.edu/corcorantranscriptkey

THE CONSORTIUM OF UNIVERSITIES OF THE WASHINGTON METROPOLITAN AREA

Courses taken through the Consortium are recorded using the visited institutions' department symbol and course number in the first positions of the title field. The visited institution is denoted with one of the following GW abbreviations.

AU	American University	MMU	Marymount University
CORC	Corcoran College of Art & Design	MV	Mount Vernon College
		NVCC	Northern Virginia Community College
CU	Catholic University of America	PGCC	Prince George's Community College
GC	Gallaudet University	SEU	Southeastern University
GU	Georgetown University	TC	Trinity Washington University
GL	Georgetown Law Center	USU	Uniformed Services University of the Health Sciences
GMU	George Mason University		
HU	Howard University	UDC	University of the District of Columbia
MC	Montgomery College	UMD	University of Maryland

GRADING SYSTEMS
Undergraduate Grading System

A, Excellent; *B*, Good; *C*, Satisfactory; *D*, Low Pass; *F*, Fail; *I*, Incomplete; *IPG*, In Progress; *W*, Authorized Withdrawal; *Z*, Unauthorized Withdrawal; *P*, Pass; *NP*, No Pass; *AU*, Audit. When a grade is assigned to a course that was originally assigned a grade of *I*, the *I* is replaced by the final grade. Through Summer 2014 the *I* was replaced with *I* and the final grade.
Effective Fall 2011: The grading symbol RP indicates the class was repeated under Academic Forgiveness.
Effective Fall 2003: The grading symbol R indicates need to repeat course.
Prior to Summer 1992: When a grade is assigned to a course that was originally assigned a grade of *I*, the grade is replaced with *I/* and the grade.
Effective Fall 1987: The following grading symbols were added: *A-, B+, B-, C+, C-, D+, D-*.
Effective Summer 1980: The grading symbols: *P*, Pass, and *NP*, No Pass, replace *CR*, Credit, and *NC*, No Credit.

Graduate Grading System

(Excludes Law and M.D. programs.) *A*, Excellent; *B*, Good; *C*, Minimum Pass; *F*, Failure; *I*, Incomplete; *IPG*, In Progress; *CR*, Credit; *W*, Authorized Withdrawal; *Z*, Unauthorized Withdrawal; *AU*, Audit. When a grade is assigned to a course that was originally assigned a grade of *I*, the grade is replaced with *I* and the grade. Through Summer 2014 the *I* was replaced with *I* and the final grade.
Effective Fall 1994: The following grading symbols were added: *A-, B+, B-, C+, C-* grades on the graduate level.

Law Grading System

A+, A, A-, Excellent; *B+, B, B-*, Good; *C+, C, C-*, Passing; *D*, Minimum Pass; *F*, Failure; *CR*, Credit; *NC*, No Credit; *I*, Incomplete. When a grade is assigned to a course that was originally assigned a grade of *I*, the grade is replaced with *I* and the grade. Through Summer 2014 the *I* was replaced with *I* and the final grade.

M.D. Program Grading System

H, Honors; *HP*, High Pass; *P*, Pass; *F*, Failure; *IP*, In Progress; *I*, Incomplete; *CN*, Conditional; *W*, Withdrawal; *X*, Exempt, *CN/P*, Conditional converted to Pass; *CN/F*, Conditional converted to Failure. Through Summer 2014 the *I* was replaced with *I* and the final grade.

For historical information not included in the transcript key, please visit http://www.gwu.edu/transcriptkey

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June 12, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

Logan Stein has applied to you for a clerkship, and I write to offer my enthusiastic support for his application. Logan has been a very fine student in two of my classes and provided me with excellent research assistance. He has all the character traits need to be an excellent law clerk. He is bright, diligent in his preparation and research, able to turn around projects on a very short timeline, and especially clear in oral and written presentation of his ideas and questions.

In my Spring 2022 Property Law course, Logan excelled in class discussion. He reads carefully and critically, demonstrating an ability to accurately explain the judge's reasoning in a case or the structure of a litigant's argument, and then to identify weaknesses or places of uncertainty in the opinion or argument. Logan also showed unusually good judgment in determining which of his questions were appropriate to ask during the class and which – typically because of their complexity or relevance for the focus of a class – were better asked during office hours. He earned a grade of A- in the course, with a score that placed him in the top quarter of the class.

Logan was also a student in my Spring 2023 course in Professional Responsibility and Ethics. Because of the size of the class, I do not encourage student questions during class – they participate by answering a series of multiple-choice questions embedded in my lectures. As in Property, my discussions with Logan outside of class were intellectually rich and enjoyable. His careful reading of the Model Rules and Restatement provisions (along with their comments) surfaced ambiguities that I had glossed over in class or failed to fully explain. Logan also posed challenging hypothetical questions that led me back to the governing law, and on several occasions to a survey of state bar committee opinions or secondary sources for guidance in responding to him. He also earned a grade of A- in that class. I do not raise students' grades for class participation (or in this context, the quality of engagement outside of class), but if I did Logan would have received an A in both courses.

Based on our conversations in Ethics, I asked Logan to do a research project on one of the questions he had asked me: How does the law handle contact between investigators or prosecutors and potential targets in criminal cases, especially when those potential targets are already represented by counsel? Within three weeks – during an especially busy time for him at the end of the semester – Logan produced an excellent memo based on his research into case law in criminal procedure and legal ethics, along with a good survey of legal commentary on the issues involved. Moreover, Logan created several multiple-choice questions on those issues; I will add one or two of the questions to my course next fall. His writing was clear and well-organized; the summary of authorities was concise and accurate, and the memo led me through the relevant distinctions needed for a solid understanding of this complex topic. I am grateful for his research and look forward to adding the topic to next year's classes.

I have students who receive better grades in my classes, but very few match the intellectual energy and hard work that Logan consistently shows. He would be an excellent and enjoyable addition to any chambers, and I am confident that he will be a superb law clerk and lawyer. Please let me know if you have additional questions. You can reach me by phone at (202)236-0518 or by email at rtuttle@law.gwu.edu.

Respectfully,

Robert W. Tuttle
Berz Research Professor of Law and Religion

June 12, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

It is a great pleasure to recommend Logan Stein for a clerkship in your chambers. Logan has remarkable energy and vitality, as befits a former semi-pro hockey player. He has an intense interest in criminal law and procedure and aims to be an Assistant U.S. Attorney. He also has a deep commitment to community service.

In my Criminal Procedure class in fall 2022, Logan stood out for his thorough preparation and accurate answers to my questions. He also posed a number of interesting questions that deepened the understanding of the material for the entire class. I was always glad to see his hand raised, as I knew that I and the whole class would benefit.

Given his excellent class participation, I had high expectations for his exam. But he outdid them, earning a grade of A+. His answers to the multiple choice questions showed that he had mastered the doctrine. Logan showed that he grasped the deeper themes of the course and applied them perfectly to the essay question. He demonstrated not only writing talent, but also outstanding analytic ability.

Logan's favorite course in law school is Criminal Procedure. He has a longstanding interest in criminal justice issues; he majored in the sociology of criminal justice, and so far in law school has done three internships related to criminal law, working with a public defender's office in Colorado, the U.S. Attorney's Office in DC, and the Commonwealth Attorney's Office in Arlington, VA. He intends to be a trial litigator, and specifically a prosecutor. His goal is to be an Assistant U.S. Attorney within five years.

He is currently writing a note for the Federal Circuit Bar Journal on the Promise to Address Comprehensive Toxics (PACT) Act of 2022. The Act concerns veterans exposed to burn pits. He observes that the Act does not presumptively provide care to federal civilian employees or government contractors who are often exposed to toxins in the same way as veterans. He argues that the Federal Circuit's jurisdiction should be expanded to include claims for benefits by those persons to help ensure uniform treatment of claims by a court that can develop considerable competency in the area.

Logan is also planning to submit for publication a paper on the use of forced labor in apparel supply chains. He focuses particularly on violations of Uyghur human rights in China, and how products of forced labor are difficult to identify in apparel supply chains. He recommends implementing mechanisms that can identify the use of forced labor, including use of synthetic DNA and cotton isotope tracing.

Logan grew up in Colorado Springs in an intense hockey environment. He and his older brother threw themselves into the sport, and both played semi-pro hockey in Wisconsin. Logan keeps active, snowboarding, hiking, and learning new sports to play with friends. He is interested in craft cocktails and craft coffee; the former is a particular hobby (I can understand that, as it's one of mine too). He enjoys learning to make classic cocktails but also appreciates their history; he recently read Susan Cheever's Drinking in America: Our Secret History, which begins with the Mayflower, a retired wine transporting ship, and provides an unsentimental look at the role of alcohol in American political and social life. In Washington and in Colorado, he took on significant volunteer activities; he relishes community service. I always enjoy conversations with Logan. He would be a pleasure to work with and a great asset to your chambers.

Please do not hesitate to contact me if I may be of further assistance.

Very truly yours,

Renée Lettow Lerner
Donald Phillip Rothschild Research Professor of Law
George Washington University Law School
(202) 994-5776
rlerner@law.gwu.edu

Candice C. Wong
1441 Rhode Island Ave NW #401
Washington, DC 20005
candice.chiu@post.harvard.edu
857-205-2885

June 1, 2023

To Whom It May Concern,

I am pleased to recommend Logan Stein in support of his application for a clerkship in your Chambers.

Logan interned from June to August 2022 with the Violence Reduction and Trafficking Offenses Section of the U.S. Attorney's Office in the District of Columbia, where I serve as an Assistant United States Attorney and as the Chief of the Section.

I worked with Logan on a number of legal and investigative assignments during his internship. Logan consistently exhibited a proactive, self-starting attitude, showing himself to be eager to seek out assignments from attorneys. Whether it was research into an issue of law relating to the applicability of a particular sentencing enhancement, the initial drafting of a sentencing memorandum for a narcotics trafficking conspiracy defendant, or the review of voluminous digital evidence to excise key pieces of relevant evidence, Logan could be counted on to volunteer for assignments and be responsive and efficient in turning them around. He always showed an interest in expanding his skillset, and, remarkably, in actively soliciting feedback on his written product. He showed himself to be a hard worker, strong multi-tasker, and clear writer.

Logan is admirably committed to a career in public service and he exhibits a strong sense of his own areas of interest. It is telling that he took the initiative of signing on for another two months, from August to December 2022, of interning with the Fraud and Public Corruption and Civil Rights Section of our office, where by his own design he was able to gain exposure to different statutes and subject matters.

I am confident that Logan is ready to immerse himself in all the new legal issues, procedures, and opportunities that a clerkship presents. Please do not hesitate to reach out to me at 857-205-2885 with any further questions.

Sincerely,

Candice C. Wong

Logan Stein

1800 N Oak St. Apt. 1015, Arlington, Virginia | (719) 487-5500 • Lstein9@law.GWU.edu

The attached writing sample is a response motion that I drafted for an Assistant Commonwealth Attorney in Arlington, Virginia. The Defense had filed a motion to suppress the evidence the Officers discovered after searching the Defendant's car. They ambiguously argued numerous Fourth Amendment violations requiring suppression. In response, the Commonwealth argued that no Fourth Amendment violations occurred and all actions by the officers were justified. The Arlington Commonwealth's Attorney's Office has approved my use of this writing sample.

RESPONSE MEMORANDUM IN OPPOSITION TO MOTION TO SUPPRESS

The Commonwealth of Virginia, by and through its attorney, the Commonwealth's Attorney for Arlington County, respectfully submits this Response Memorandum, opposing the Defense's Motion to Suppress. The Court should deny the Motion to Suppress because the officers were reasonable and justified in all searches and seizures during their investigation.

INTRODUCTION

On June 22, 2022, at approximately 1900 hours, Officer Keating and Officer Bane were located at the Pentagon City Fashion Center Garage in full patrol uniform and a marked Arlington County Police Department cruiser. While the officers were parked on the P3 level of the garage, the officers heard tires screeching and an accelerating revving engine. The officers observed a white, newer model Jeep Grand Cherokee Trackhawk which was later determined to be driven by the Defendant, traveling at a high rate of speed down the ramp towards the lower levels. Officer Keating observed the Defendant snap his gaze to his left as he passed the officers and appeared to have an involuntary reaction of surprise to the presence of uniformed police officers. Defendant slammed on his brakes which illuminated the rear brake lights and caused the front-end suspension to drastically compress, the front end of the Trackhawk to nosedive, and the Defendant to lurch forward in his seat. At this time the officer found the Defendant's nervous reaction to the marked law enforcement officers to be suspicious and decided to investigate further.

Officer Bane observed the Trackhawk park nose in on P1 level in a parking space and the Defendant exit the vehicle to walk at a high rate of speed into the shopping center. Officer Keating observed that the Trackhawk had a single temporary rear license plate (Wisconsin dealer tag WH2068D) which returned to a "PMC Motorcar Inc" out of Arlington, Wisconsin. Officer

Keating observed the Trackhawk's vehicle identification number (VIN) displayed in the windshield (1C4RJFN98JC228391). Based on Officer Keating's training and experience, they noticed numerous suspicious indicators regarding the VIN. The color of the characters appeared to be off-color, the font did not match what is normally found, the text of the characters was much bolder than typical, and the lines appeared blurred on some edges. Moreover, Officer Keating was able to compare the VIN of the Trackhawk with another Jeep Grand Cherokee of a similar model year located within the garage to confirm the differences in VIN character and color. Based on these observations, Officer Keating believed the Trackhawk was a reVINed or cloned vehicle.

Furthermore, Officer Keating searched all 50 states NLETS for the Trackhawk's VIN. The search returned only a single return out of California for a 2018 Jeep with a suspended registration and a title mileage of 25,348mi. Officer Keating then referenced a law enforcement database for vehicles and found that the VIN was originally entered on May 31, 2021 in California again with the same mileage of 25,348mi. Officer Keating found this highly atypical and throughout their law enforcement experience had never seen a legitimate, newer model Fiat Chrysler Automobiles vehicle to have no record of existing for three years and then suddenly be registered with over 25,000mi. Additionally, based on Officer Keating's training and experience, they knew that Fiat Chrysler Automobiles, specifically those with the upgraded engine present in Trackhawks like the vehicle in question, are disproportionately targeted for auto theft and then subsequent reVINing.

At approximately 2015 hours, Officer Keating observed the same individual they previously observed driving the Trackhawk, the Defendant, exit the shopping center and walk into the garage. The Defendant began to walk in the direction of the Trackhawk and the officers.

Prior to reaching the location of the Trackhawk and the officers, the Defendant clearly observed both Officer Keating, Officer Bane, and their marked law enforcement cruiser. Officer Keating observed the Defendant freeze in his tracks upon noticing the officers. The Defendant retrieved his phone from his pocket and aimlessly took a few steps before making a call. The Defendant walked in a wide circle around where the Trackhawk and the officers were located while looking out of the corner of his eyes multiple times at the officers. Officer Bane confirmed that the individual was the same individual they observed exiting the vehicle and Officer Keating also confirmed they were the same individual they observed operating the vehicle earlier.
Officer Keating then contacted the Defendant, confirmed he was the driver and possessor of the Trackhawk, and informed him that he was being detained. Officers identified the Defendant based on his Maryland license. Officers informed the Defendant that they would be seizing the Trackhawk. During the encounter Officer Keating observed the Defendant transfer a red Jeep key fob from his front left pocket to his front right pocket and refused to provide the officers with the key fob.

Later, while officers were waiting for a tow truck, officers allowed the Defendant to sit in the front passenger seat of a female companion's vehicle (Ms. Tyesha Thompson). Officer Keating approached the Defendant and explained that the key fob for the Trackhawk needed to be seized as evidence. The Defendant refused to provide Officer Keating with the key fob. Officer Keating observed the red Jeep key fob in the door pocket of the passenger side door of Ms. Thompson's vehicle in plain view. Officer Keating grabbed the key fob attempting to seize it and the Defendant grabbed Officer Keatings wrist. The Defendant attempted to pry Officer Keating's fingers off of the key fob, but Officer Keating ultimately seized it. Ms. Thompson then drove the Defendant away from the scene.

Officer Keating waited for the tow truck and then inventoried the items in the vehicle. In the course of doing so, Officer Keating located what appeared to be a key fob readout sheet belonging to a different Jeep (VIN 1C4RJFN98JC3067561). In the glove box, Officer Keating located a VIN sticker bearing another different VIN which a subsequent search returned as a stolen white 2018 Jeep Trackhawk from Kunes Chrysler Dodge Jeep Ram in Belvidere, IL. Officer Keating also observed a kitchen blender box within a street slick tire. Inside the box were three large vacuum sealed bags filled with green leafy substance that was later determined to be 3.3lbs of marijuana. Additionally, there were approximately 150 commercially packaging bags commonly used for marijuana sale.

LEGAL ARGUMENT

Law enforcement officers acted reasonably and complied with the Fourth Amendment at all stages of their investigation. In Defense's Motion, they ambiguously raise four instances that they claim require further Fourth Amendment analysis. While the Defense fails to articulate what specifically they are claiming is a Fourth Amendment violation and what evidence they are seeking to be excluded, this analysis clearly illustrates that no Fourth Amendment violations occurred and all of the evidence collected on June 22, 2022, is admissible. The instances analyzed in this case are (I) the seizure of the Defendant when officers detained his person, (II) the seizure of the Trackhawk, (III) the seizure of the Trackhawk key fob, and (IV) the search of the Trackhawk. All these instances are justified on Fourth Amendment grounds and do not violate the Defendant's Fourth Amendment rights. Therefore, the Defense's Motion to Suppress must be denied.

I. The Seizure of the Defendant's person

Officers' seizure of the Defendant's person was reasonable and justified in accordance with the Fourth Amendment and *Terry v. Ohio*. In *Terry v. Ohio*, the Court held that law enforcement officers may temporarily detain a suspect when there is reasonable suspicion the individual has committed or is likely to commit a crime. The reasonable suspicion must be considered in the "totality of the circumstances" to determine whether "the detaining officer has a 'particularized and objective basis' for suspecting legal wrongdoing." *United States v. Arvizu*, 534 U.S. 266, 273 (2002). Moreover, an officer's experience, training, and expertise may allow them to identify or make inferences that would not raise suspicion for untrained individuals. *United States v. Cortez*, 449 U.S. 411 (1981).

In this case, as evidenced by Officer Keating's Field Case Report, they have articulated numerous particularized and objective facts that create reasonable suspicion which justifies a Terry stop. When officers first observed the Defendant, he reacted to their presence in a startled manner and involuntarily snapped his gaze in their direction. The Defendant then quickly stomped on the brakes of the Trackhawk in response to their presence. Later, when he exited the shopping center and once again observed the officers, the Defendant stopped in his tracks to walk awkwardly about followed by an attempt to observe the officers without drawing attention to himself. When he was informed that he was detained, he became increasingly noncompliant and even tried to walk away from the officers.

Furthermore, Officer Keating, utilizing his training and experience, observed multiple oddities with the VIN of the Trackhawk: The color of the characters appeared to be off-color as opposed to the normal clear white, the font did not match what is normally found on proper VIN plates of similar models, the text of the characters was much bolder than typical, and the lines

appeared blurred on some edges. These observations were corroborated when Officer Keating observed a similar Jeep Grand Cherokee of a similar model year located within the garage. Furthermore, upon searching the NLETS and law enforcement systems, Officer Keating discovered the Trackhawk had no record of existing for a period of about three years and then all of the sudden was titled with over 25,000mi. All of these facts, considered in the totality of the circumstances and with Officer Keatings experience in law enforcement, not only provide for reasonable suspicion but provide probable cause that the vehicle was stollen, reVINed, or cloned in violation of the law. Therefore, Officers had legal justification to detain the Defendant for purposes of investigating his involvement in these criminal offenses including the alleged charge of possession of a reVINed vehicle in violation of §46.2-1075 Code of Virginia (1950).

II. The Seizure of the Trackhawk

Officers' seizure of the Trackhawk was reasonable and justified under the Fourth Amendment. *Carroll v. United States*, 267 U.S. 132 (1925). In *Carroll*, the Court held that officers may seize and search an automobile if they have probable cause to believe it contains evidence of a criminal offense. *Id.* Additionally, police may search the automobile immediately upon finding probable cause, or they may impound the vehicle and search the vehicle later. *Chambers v. Maroney*, 399 U.S. 42 (1970). As previously discussed, all of the facts Officer Keating describes in detail in their Field Case Report rise to the level of probable cause. The Defendant's repeated irregular behavior in response to observing the officers, the observed irregularities with the VIN of the Trackhawk, and the search results of the VIN in law enforcement systems together create a significant probability that the Trackhawk contains evidence of criminal activity. Therefore, Officer Keating was justified in seizing the Trackhawk to later search for evidence of criminal activity.

III. The Seizure of the Trackhawk Key Fob

Officer Keating's seizure of the Trackhawk key fob was reasonable and justified under the Fourth Amendment because it was evidence of criminal activity regarding the vehicle. As previously established, officers had probable cause to seize the Trackhawk because of the articulated facts by Officer Keating. Therefore, officers have probable cause to seize evidence of the criminal activity regarding the Trackhawk. The key fob is evidence of this criminal activity and therefore it was reasonable and justified for officers to seize it in the course of their investigation.

Furthermore, the key fob was not in the possession of the Defendant at the time Officer Keating seized it, rather it was in the passenger compartment of Ms. Thompson's vehicle. Therefore, the Defendant lacks standing to claim that seizure of the key fob violated his Fourth Amendment rights because he does not have privacy interests in Ms. Thompson's vehicle. Fourth Amendment rights are personal rights, and the Defense fails to show that his personal rights were violated when Officer Keating seized the key fob from Ms. Thompson's vehicle. In *Rakas*, the Court held that individuals do not have privacy rights in a third party's vehicle and that any search and subsequent seizures from the third party's vehicle cannot have had their Fourth Amendment rights violated. *Rakas v. Illinois*, 439 U.S. 128 (1978). Moreover, this same principle was also held in *Rawlings* where the Court held that when officers searched and seized drugs from a third party's purse, the defendant did not have standing to assert privacy rights of a purse that was not theirs. *Rawlings v. Kentucky*, 448 U.S. 98 (1980). Here, the key fob was located in the passenger door compartment of Ms. Thompson's vehicle while in plain view. The key fob was not in the Defendant's possession at the time it was seized, but rather Ms. Thompson's.

Therefore, any challenge to seizure of the key fob from the Defendant must fail because his privacy rights are not implicated by Officer Keatings actions in seizing the key fob.

Alternatively, if the Court is inclined to find that the seizure of the Trackhawk key fob was a violation of the Defendant's Fourth Amendment rights, it should still deny the Motion to Suppress because discovery of the evidence in the Trackhawk was inevitable. In *Nix v. Williams*, the Court held that evidence that would otherwise be discovered through legitimate means can be admissible regardless of any Fourth Amendment violation. *Nix v. Williams*, 467 U.S. 431 (1984). Here, officers had probable cause from the above described facts to believe the Trackhawk contained evidence of criminal activity. The probable cause is independent of the seizure of the Trackhawk key fob. Put simply, even if the key fob was not seized by officers, they still were justified independently in searching the vehicle and would have discovered the evidence within. Therefore, even if the Court finds that Officer Keating violated the Defendant's rights when he seized the Trackhawk from Ms. Thompson's passenger door compartment, officers were justified in searching the Trackhawk and the discovery of the evidence inside the Trackhawk would have inevitably been discovered by law enforcement.

IV. The Search of the Trackhawk

Officers' search of the Trackhawk after seizing it was pursuant to probable cause and is reasonable and justified under the Fourth Amendment. As previously discussed, under *Carroll*, officers are justified in warrantlessly seizing and searching a vehicle when there is probable cause to believe it contains evidence of criminal activity. *Carroll,* 267 U.S. at 156. The Court reasoned this holding on the high possibility of destruction of evidence and the increased mobility of automobiles. *Id.* at 154. Also, under *Chambers* officers may search the vehicle at the time of establishing probable cause or they may wait to search it later upon impounding.

Chambers, 399 U.S. at 52. In this case, Officer Keating waited for the tow truck to arrive and then proceeded to conduct an inventory search of the contents of the vehicle. At this time, Officer Keating discovered further incriminating evidence inside the Trackhawk. The evidence included a key fob readout sheet belonging to a different vehicle, a VIN sticker with a different VIN that was later discovered to be for a stolen car from Illinois, approximately 3.3lbs of marijuana, and about 150 commercial packaging bags commonly used to package marijuana. Officer Keating acted reasonably and justifiably in searching the Trackhawk because he had probable cause to believe it contained evidence of criminal activity.

WHEREFORE, for the foregoing reasons, the Commonwealth respectfully asks the Court to deny the Defense's motion to suppress the evidence lawfully obtained on June 22, 2022.

Applicant Details

First Name	**Maya**
Middle Initial	**S**
Last Name	**Stevenson**
Citizenship Status	**U. S. Citizen**
Email Address	**maya.stevenson@law.ua.edu**
Address	**Address** Street **201 Marina Drive, Apt. 507** City **Tuscaloosa** State/Territory **Alabama** Zip **35406** Country **United States**
Contact Phone Number	**2254549795**

Applicant Education

BA/BS From	**Louisiana State University-Baton Rouge**
Date of BA/BS	**May 2021**
JD/LLB From	**The University of Alabama School of Law** **http://www.law.ua.edu**
Date of JD/LLB	**May 10, 2024**
Class Rank	**I am not ranked**
Law Review/Journal	**Yes**
Journal(s)	**Alabama Civil Rights and Civil Liberties**
Moot Court Experience	**Yes**
Moot Court Name(s)	**Civil Rights and Civil Liberties, Tax Law Moot Court Team**

Bar Admission

Prior Judicial Experience

Judicial Internships/ Externships	**Yes**
Post-graduate Judicial Law Clerk	**No**

Specialized Work Experience

Recommenders

Fair, Bryan
bhastings@law.ua.edu
Kappel, Cecelia
CTKappel@defendla.org
Head, Anita
ahead@law.ua.edu
2058374564
Fair, Bryan
bfair@law.ua.edu
2053487494

This applicant has certified that all data entered in this profile and any application documents are true and correct.

Maya S. Stevenson
201 Marina Drive, Tuscaloosa, AL, 35406
Maya.stevenson@law.ua.edu
225-454-9795

June 13, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510

Dear Judge Walker,

I am a rising third-year student at The University of Alabama School of Law, and I am writing to express my interest in a clerkship in your chambers for the 2024-2025 term. During my time in law school, I have devoted my career to serving the public and I believe that my experiences have prepared me to serve your chambers as a clerk. Since I was a child, the importance of community has been instilled in me. From participating in clothing drives to volunteering all over my hometown, serving my community quickly became a foundational part of who I am. I came to law school to serve communities who have felt the harm of the legal system, particularly communities in the South. In pursuit of that goal, I have strived to learn all I can to be the best advocate for those whom I will serve. That is why I would love nothing more than to clerk in your chambers. A clerkship in your chambers would be training that I would be honored to receive as I strive to become the best attorney possible for my future clients.

During my time in law school, I have received numerous honors, including the inaugural John Paul Stevens Fellowship, the Capstone Legal Scholarship, and a high pass in my Legal Writing II course. I have also had several experiences that have furthered the development of my legal research and writing skills.

This upcoming year, I am serving as Editor in Chief of the *Alabama Civil Rights & Civil Liberties Law Review*, as well as a member of the Alabama Law Moot Court Board. I have been chosen to compete on the law school's tax moot court team in the Spring. Further, I was a member of the law school's 2022 Civil Rights and Liberties Moot Court Team, which placed as quarterfinalists and won the 3rd Best Brief Award in the Emory Civil Rights and Liberties Moot Court Competition. I will also serve as a Student Attorney in the law school's Criminal Defense Clinic this fall.

This past semester, I served as a judicial intern for Judge Theodore McKee on the United States Court of Appeals for the Third Circuit, where I learned extensively about what a judicial clerk does. I drafted two judicial opinions, wrote memos, attended oral arguments, and conducted legal research. I also discussed cases with Judge McKee and offered my thoughts on the various legal issues at hand in the case. This experience only solidified my desire to clerk after graduation. Working with Judge McKee and his chambers was a career-changing experience, and he is happy to discuss my work for him. He can be reached at Judge_theodore_mckee@ca3.uscourts.gov or 215-597-9601. During my first summer, I interned with the Capital Appeals Project, a Louisiana-based non-profit that serves individuals on Louisiana's death row. This summer, I am interning with the American Civil Liberties Union's Capital Punishment Project, where I also interned this past fall.

I am also deeply involved in extracurricular efforts at my law school. I am a law school ambassador, a member of the law school's Public Interest Student Board, as well as a devoted member of the Black Law Students Association.

A copy of my resume and my most recent transcript are enclosed. I have included a brief from one of my moot court competitions as a writing sample. Letters of recommendation from Professor Anita Kay Head, Professor Bryan K. Fair, and Cecelia Kappel of the Capital Appeals Project will be sent separately. Thank you for your consideration.

Respectfully,

Maya S. Stevenson

Maya S. Stevenson

201 Marina Drive, Apt. 0507, Tuscaloosa, Alabama, 35406 • 225.454.9795 • maya.stevenson@law.ua.edu

EDUCATION

The University of Alabama School of Law **Tuscaloosa, AL**

Juris Doctor Candidate with Certificate in Public Interest, May 2024

- Editor in Chief, Vol. 15 of the *Alabama Civil Rights and Civil Liberties Law Review*
  - Associate Editor, Vol. 14 of the *Alabama Civil Rights and Civil Liberties Law Review*
- 2023-2024 Tax Moot Court Team
- Alabama Law Moot Court Board
- 2022 Civil Rights and Liberties Moot Court Team
  - Awarded 3rd Best Brief Award in the Emory Civil Rights and Liberties Moot Court Competition; Quarterfinalists
- **Honors/Awards**: Capstone Legal Scholarship (full-tuition scholarship plus stipend); BLSA Bar Prep Course Scholarship; John Paul Stevens Public Interest Fellowship (Inaugural Fellow); High Pass in Legal Writing II
- **Leadership**: The Appellate Project (2022-2023 Mentee); Law School Ambassador; American Constitution Society ('22- '23 Diversity Director); Anti-Trafficking Law Student Association (2L Rep); Black Law Students Association; National Lawyers Guild; Public Interest Student Board

Louisiana State University **Baton Rouge, LA**

Bachelor of Arts: English, Philosophy, Minor in Leadership Development, May 2021

- **Honors/Awards**: Taylor Opportunity Program for Students Honors (full-tuition scholarship plus stipend); LSU Tiger Twelve Class of 2021 Honoree; LSU Office of Multicultural Affairs Lasting Legacy Award Recipient; Black Faculty and Staff Caucus Black Scholar Award; LSAC Plus Award Participant; LSU Office of Multicultural Affairs Excellence Awards for *Emerging Leader* and *Best New Initiative* for "Nubian-Made Event,"; Opinion Columnist of the Semester, Fall 2018
- **Leadership**: Tigers Against Trafficking (President, Communications Chair); Black Women's Empowerment Initiative (Event Chair); Domestic Violence Awareness Month Planning Committee; Leadership LSU Fall 2020 Cohort; Supermajority Education Fund Majority Leader; LSU Black History Month 2020 Committee; LSU Summer Scholars 2017
- **Publications**: *Featured in LSU 2017-2018 Diversity Impact Report; Featured in LSU Cornerstone Winter 2017/Spring 2018, "Summer Strong"*

EXPERIENCE

Criminal Defense Clinic, The University of Alabama School of Law **Tuscaloosa, AL**

Student Attorney, Fall 2023

American Civil Liberties Union (ACLU) **Remote/Durham, NC**

Summer Legal Intern, June 2023—Present

- Work with the Capital Punishment Project's legal team on projects that seek to end the death penalty on the national level through direct representation, strategic litigation, systemic reform, and public education/advocacy.
- Work on Racial Justice Act cases that attack racial discrimination on death row in California.
- Work on death jury qualification cases that consider racial discrimination among capital juries in states across the South.

Fall Legal Intern, September 2022—December 2022

- Worked on mitigation projects and assisted in the compilation of materials for ongoing trials.
- Compiled materials detailing the historical background of the death penalty within different jurisdictions.
- Assisted with discovery and investigation into legal misconduct in historical executions.

United States Third Circuit Court of Appeals **Remote/Philadelphia, PA**

Judicial Intern for Judge Theodore McKee, January 2023—May 2023

- Researched and drafted non-precedential opinions in conjunction with law clerks.
- Wrote research memoranda along with discussing the legal analysis of ongoing cases with law clerks.
- Researched and consulted with Judge McKee on ongoing precedential cases, including the most recent employment case, *Johnson, et. al v. NCAA, et. al.*

Alabama Appleseed Center for Law and Justice **Remote/Montgomery, AL**
Volunteer, January 2023—Present
- Assist in post-conviction research of individual cases in Alabama.
- Compile files with research and submit to supervisors for further investigation.

Capital Appeals Project/Promise of Justice Initiative **New Orleans, LA**
Law Clerk, May – August 2022
- Worked under the Executive Director to perform research, analysis, and policy consideration regarding trial level, appellate, post-conviction, and federal habeas corpus matters.
- Worked on an ongoing capital trial within the Baton Rouge area, locating issues for appeal and supporting trial counsel.
- Conducted research regarding the impact of ongoing cases and decisions on current organizational caseloads.
- Assisted in writing briefs and motions submitted to federal and state courts.
- Organized client documents, clarified trial records, and assisted in investigation for cases.

Redemption Earned, Inc. **Remote/Birmingham, AL**
Volunteer, February 2022 – December 2022
- Worked with Alabama's first program to aid incarcerated individuals in obtaining work release by resolving detainers through mailing forms to inmates to determine their eligibility.
- Monitored and reviewed forms and resolved any matters that would make the individual ineligible for work release.

Geo Prep Academies **Baton Rouge, LA**
Teaching Assistant/Substitute, June 2021 – July 2021
- Worked with low-income students of color to improve their academic progress in English and Mathematics, through one-on-one work and teaching.
- Substituted for unavailable teachers, implemented lesson plans, taught the entire class, tracked progress, and created and reinforced progress.

Louisiana Department of Labor (Louisiana Workforce Commission) **Baton Rouge, LA**
Student Worker, Office of Unemployment Insurance Appeals Tribunal, June 2018 - July 2021
- Assisted 500+ claimants weekly by researching, locating, and clarifying information regarding applicable employment statutes and codes.
- Docketed and filed appeals dealing with various unemployment statutes, such as overpayments or unemployment qualifications.

VOLUNTEER EXPERIENCE

West Alabama Food Bank (August 2021); Companion Animal Alliance: Volunteer (August 2019 – July 2021); Voter Empowerment Network (September 2020 – August 2021); Martin Luther King Jr. Day of Service (2018-2020)'

Interests

Reading, Traveling, Live Music, Volunteering, Spending Time with Family and Friends

The University of Alabama

Tuscaloosa, Alabama 35487

OFFICIAL ACADEMIC TRANSCRIPT

SSN: ***-**-2946 Date of Birth: 20-MAR Date Issued: 12-JUN-2023

Record of: Maya Stevenson Page: 1
Issued To: MAYA STEVENSON
MSTEVENSON2@CRIMSON.UA.EDU

Course Level: Law

Current Program:
Juris Doctor
College : Law School
Major : Law

INSTITUTION CREDIT:

SUBJ	NO.	COURSE TITLE	CRED	GRD	PTS	R
Fall 2021						
Law School						
Law						
LAW	602	Torts	4.000	B	12.000	
LAW	603	Criminal Law	4.000	B+	13.320	
LAW	608	Civil Procedure	4.000	B	12.000	
LAW	610	Legal Research/Writing	2.000	C	4.000	
LAW	713	Intro to Study of Law	1.000	P	.000	
	Ehrs:	15.000 QPts:	41.320			
	GPA-Hrs:	14.000 GPA:	2.951			
Good Standing						
Spring 2022						
Law School						
Law						
LAW	600	Contracts	4.000	B-	10.680	
LAW	601	Property	4.000	B-	10.680	
LAW	609	Constitutional Law	4.000	C+	9.320	
LAW	648	Legal Research/Writing II	2.000	B-	5.340	
LAW	742	Legislation and Regulation	2.000	B	6.000	
	Ehrs:	16.000 QPts:	42.020			
	GPA-Hrs:	16.000 GPA:	2.626			
Good Standing						
Fall 2022						
Law School						
Law						
LAW	626	Mt Ct Competition Teams	2.000	P	.000	
LAW	628	Consumer Protection	3.000	B+	9.990	

********** CONTINUED ON NEXT COLUMN **********

SUBJ	NO.	COURSE TITLE	CRED	GRD	PTS	R
Institution Information continued:						
LAW	645	Business Organizations	3.000	B	9.000	
LAW	660	Legal Profession	3.000	B	9.000	
LAW	731	Due Process Survey	2.000	B+	6.660	
LAW	821	Public Interest Lawyering	2.000	A-	7.340	
	Ehrs:	15.000 QPts:	41.990			
	GPA-Hrs:	13.000 GPA:	3.230			
Good Standing						
Spring 2023						
Law School						
Law						
LAW	626	AL Law 2L Mt Ct Comp Class	1.000	P	.000	
LAW	670	Federal Jurisdiction	3.000	B-	8.010	
LAW	683	Administrative Law	3.000	B	9.000	
LAW	753	Equal Protection Seminar	2.000	A-	7.340	
LAW	790	Crim Procedure Trial	3.000	A-	11.010	
LAW	795	Externship Program	3.000	P	.000	
	Ehrs:	15.000 QPts:	35.360			
	GPA-Hrs:	11.000 GPA:	3.215			
Standing Undetermined						
Fall 2023						
IN PROGRESS WORK						
LAW	642	Evidence	3.000	IN PROGRESS		
LAW	644	Decedents Estates Trusts Plan	3.000	IN PROGRESS		
LAW	665	Clinical Program	2.000	IN PROGRESS		
LAW	665	Clinical Program	4.000	IN PROGRESS		
LAW	700	Appellate Advocacy	2.000	IN PROGRESS		
		In Progress Credits	14.000			

********** CONTINUED ON PAGE 2 **********

K.H. Foshee
University Registrar

This transcript processed and delivered by Parchment

The University of Alabama

Tuscaloosa, Alabama 35487

OFFICIAL ACADEMIC TRANSCRIPT

SSN: ***-**-2946 Date of Birth: 20-MAR Date Issued: 12-JUN-2023

Record of: Maya Stevenson Page: 2
Level: Law

********** TRANSCRIPT TOTALS **********

INSTITUTION	Ehrs:	61.000	QPts:	160.690
	GPA-Hrs:	54.000	GPA:	2.976
TRANSFER	Ehrs:	0.000	QPts:	0.000
	GPA-Hrs:	0.000	GPA:	0.000
OVERALL	Ehrs:	61.000	QPts:	160.690
	GPA-Hrs:	54.000	GPA:	2.976

********** END OF TRANSCRIPT **********

K.H. Foshee
University Registrar

This transcript processed and delivered by Parchment

THE UNIVERSITY OF ALABAMA
Office of the University Registrar
Box 870134
Tuscaloosa, Alabama 35487-0134
(205) 348-2020
registrar@ua.edu

TRANSCRIPT GUIDE

The University of Alabama does not issue partial transcripts of a student's record.

ACADEMIC BANKRUPTCY - Academic Bankruptcy involves an undergraduate student's request to retroactively withdraw from one academic term due to extenuating circumstances. If granted, all courses taken during the term in question will be graded "W" (Withdrawn). No more than one petition for Academic Bankruptcy may be approved during a student's academic career at The University of Alabama. A notation regarding the Academic Bankruptcy will appear under the term in which the request was granted.

ACADEMIC SECOND OPPORTUNITY - Students who have been separated from The University of Alabama for at least three academic years may petition to apply for readmission through Academic Second Opportunity. If approved, all previous institutional academic work remains on the student's permanent record, but the grades for previous work are no longer used in computing the grade point average (GPA). Grades of "C-" or higher are changed to grades of "P" (Pass) and may be applied to a degree program. All grades of "D+" or lower are removed from the GPA calculation. These changes apply only to coursework completed at The University of Alabama. A notation regarding the Academic Second Opportunity will appear on the transcript.

ACADEMIC STANDING - A student's academic standing is computed based on the total number of earned hours and a student's institutional GPA. A student's current academic standing at the time of transcript printing is reflected under the last term completed. Students with an academic standing of "Good Standing" or "Academic Warning" are considered eligible to return.

ACCREDITATION - The University of Alabama is accredited by the Southern Association of Colleges and Schools Commission on Colleges to award baccalaureate, masters, educational specialist, and doctoral degrees. Contact the Commission on Colleges at 1866 Southern Lane, Decatur, Georgia 30033-4097 or call 404-679-4500 for questions about the accreditation of The University of Alabama.

CALENDAR - The University of Alabama operates under a semester system. The University's academic calendar is divided into fall, spring, and summer semesters.

CLASSIFICATIONS - The University of Alabama classifies students based on earned hours as follows:
Undergraduate
Freshman: 0 - 30.999 semester hours
Sophomore: 31 - 60.999 semester hours
Junior: 61 - 90.999 semester hours
Senior: 91 or greater semester hours
Law
First-year law student: 0 - 29.999 semester hours
Second-year law student: 30 - 53.999 semester hours
Third-year law student: 54 or greater semester hours

COURSE NUMBERING SYSTEM - The proper interpretation of course numbers of The University of Alabama is as follows:
001-099: Remedial non-credit courses
100-199: Primarily for freshmen
200-299: Primarily for sophomores
300-399: Primarily for juniors
400-499: Primarily for seniors
500-699: Primarily for graduate and law courses
700+: Professional courses for law and medical students

FORGIVENESS POLICY – Discontinued November 1, 2001, students enrolled in undergraduate programs at The University of Alabama were allowed to drop a maximum of three courses taken at the University from the computation of the GPA. Courses not computed in the GPA could not be applied toward baccalaureate degree requirements. These courses and grades remained on the transcript but were excluded from earned hours and the GPA. Once a course was dropped from GPA computation under this policy, the grade and credit could not be restored.

FULL-TIME STATUS - The University of Alabama defines full-time status as follows:
Undergraduate: 12 semester hours
Graduate: 9 semester hours
Law: 10 semester hours
Medical: 12 semester hours

GRADING SYSTEM - The University of Alabama utilized a 3 point grading system from 1831 through August 1983 (summer term). Effective fall semester 1983, The University of Alabama converted to a 4 point grading system. Beginning fall semester 1994, the University moved to a plus/minus grading system for those students who had no previous higher education work. The value of the A+ changed from 4.0 to 4.33 effective with the fall semester 1999. The maximum overall GPA a student can earn is 4.0. The following grade notations are used in computing the Grade Point Average (GPA - the quotient of quality points divided by quality hours):

Grade	Grade points per hour credit	
A+	4.33	
A	4.0	
A-	3.67	
B+	3.5	(Law students beginning prior to Summer 2003)
B+	3.33	
B	3.0	
B-	2.67	
C+	2.5	(Law students beginning prior to Summer 2003)
C+	2.33	
C	2.0	
C-	1.67	
D+	1.33	
D	1.0	
D-	0.67	
F	0.0	
AU (Audit)	0.0	Not used in computation of GPA or enrollment status
DO (Dropped Out)*	0.0	Not used in computation of GPA
I (Incomplete)	0.0	Computed same as 'F'
IP (In Progress)	0.0	Not used in computation of GPA
N (No grade reported)	0.0	Computed same as 'F'
NA (Never Attended)*	0.0	Not used in computation of GPA
NC (No credit)	0.0	Not used in computation of GPA
NG (Not Graded)	0.0	Not used in computation of GPA
P (Pass)	0.0	Not used in computation of GPA
W (Withdrawn)	0.0	Not used in computation of GPA
WF (Withdrawn Failing)*	0.0	Computed same as 'F'
WP (Withdrawn Passing)*	0.0	Not used in computation of GPA

*Grade is no longer in use

PLACEHOLDER COURSES - Students participating in the National Student Exchange program, various consortium agreements, and various study abroad programs may be placed into courses designated by CIP, MSC, or NSE subject codes, respectively, for the purposes of enrollment verification and tuition payment. Following the term of enrollment, these courses will be graded "NG" (Not Graded). Actual coursework earned will be posted on the transcript in addition to the placeholder course.

RELEASE OF INFORMATION - The Family Educational Rights and Privacy Act of 1974 and later amendments prohibits release of information from this document to a third party without the student's written consent.

REPEATED COURSES - When courses are repeated, only the most recent attempt will count towards earned hours (with the exception of courses approved for repeatable credit). Grades for all attempts remain on the record and are computed in the student's GPA.

TRANSFER WORK - Transfer hours may be applied to degree programs and are computed in a student's overall GPA. All transfer courses listed on the transcript do not necessarily apply towards a degree program.

TRANSCRIPT VALIDATION – An official transcript is printed on secure paper, does not require a raised seal, and is valid only when it bears the signature of the registrar. Hold document up to the light to see the translucent watermark image. This transcript is printed on a crimson background. When photocopied in color, the word "VOID" will appear. A black and white transcript is NOT an original document.

Any questions regarding the validity of this transcript should be directed to: The University of Alabama, Office of the University Registrar, 206 Student Services Center, Box 870134, Tuscaloosa, AL 35487, (205) 348-2020, registrar@ua.edu.

June 23, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

I am thrilled to write this letter of recommendation for Ms. Maya Stevenson, who is an outstanding rising third year law student at The University of Alabama School of Law. I have known Ms. Stevenson since her first year of law school and it has been a pleasure to watch her soar. Ms. Stevenson has the intellect, skill, and work ethic to excel as a judicial clerk. I think she could serve your chambers with distinction. I endorse her application enthusiastically. I hope you will meet her and give her application your fullest consideration.

I have had the privilege of serving on the faculty and teaching at The University of Alabama School of Law for the past 32 years. Most of my courses relate to Constitutional Law. In the first-year curriculum, I teach a comprehensive introduction to constitutional cases. I require students to read, brief, and present leading cases, which we examine closely during class discussions. In advanced classes, we also discuss leading cases, however, students primarily write research papers. In all my classes, I have the chance to observe and evaluate carefully how each student engages the materials and each student's skills. I am proud to write that Alabama Law has many terrific and talented students.

I had the opportunity to observe Ms. Stevenson's talents especially well when she enrolled in my Equal Protection seminar this past spring. The purpose of the seminar course is to provide each student the opportunity to research and write a paper of publishable quality. After initially reading a series of landmark Equal Protection cases, participants presented drafts of their papers to the class. Each participant read each paper. With only five students in the class, I could carefully observe and evaluate each student.

Ms. Stevenson was superb in the class. She read and digested the cases and raised perceptive insights about the various opinions of the justices. For her research paper, she critiqued the Court's equal protection analysis in McCleskey v. Kemp, explaining why the Court's disproportionate impact assessment was inadequate and unpersuasive. Her paper examined the background of the case, its jurisprudential impact, and how the Court should have approached the analysis of the case in light of its precedent. Ms. Stevenson has the aptitude to work through complex materials and to present them clearly.

She also has excellent research and writing skills which will enable her to do the work of a judicial law clerk. She conducted excellent research for her paper, examining the academic literature, leading Supreme Court cases, and state court decisions that related to her topic.

I also had the pleasure of having Ms. Stevenson in my Due Process Survey class last Fall, in which I also witnessed her superior attention to detail. In the Due Process course, Ms. Stevenson was assigned Obergefell v. Hodges, on which she prepared a multi-page brief for the class, breaking down each issue,
what each Justice wrote in the opinion, and the Due Process issues examined in the case. I was extraordinarily impressed with her ability to simplify such a lengthy and complex decision.

Ms. Stevenson also has a reputation for hard work. Throughout her time in law school, both in and outside the classroom, she has been known as a person with an exceptional work ethic. Ms. Stevenson is involved in multiple law school activities and is one of the most active members of our community. She was recently selected as Editor in Chief for the Alabama Civil Rights and Civil Liberties Law Review. Everyone in the law school has the utmost confidence in Ms. Stevenson's ability to lead the journal. It is evident that she has a clear appreciation for the subject matter of the journal and will take her duties seriously.

Beyond her participation on her journal, Ms. Stevenson has also been an active member of the law school's nationally ranked moot-court program. During her second year, she was handpicked out of many applicants to be on the Civil Rights and Liberties Moot Court team, an opportunity rarely afforded to second-year law students. Her team performed well in the competition, bringing back another moot court award for the Law School. Furthermore, the semester after she competed in the Civil Rights and Liberties Moot Court competition, she competed in the law school's internal competition, where she once again beat out many participants to make the prestigious John A. Campbell Moot Court Board.

Finally, Ms. Stevenson meets people easily and works well on a team. Our law school has a very collegial and supportive environment, and Ms. Stevenson has a reputation for being supportive and collaborative with her classmates. I have no doubt that if you meet her, you will be impressed. Again, I endorse her application for a judicial clerkship with great enthusiasm.

Sincerely,

Bryan K. Fair
Thomas E. Skinner
Professor of Law

Bryan Fair - bhastings@law.ua.edu

June 19, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

I am writing to enthusiastically support Maya Stevenson's application for a clerkship in the federal courts. I believe her demonstrated commitment to equal justice for all citizens, serving the indigent, and adherence to the rule of law makes her an ideal candidate to assist federal judges in their duties.

The Capital Appeals Project is a 501(c)(3) non-profit public defense organization that provides representation to indigent defendants sentenced to death in their direct appeals and post-conviction cases, provides pre-indictment representation for defendants facing capital charges, provides consultation, research, and support to trial teams during the course of capital trials, and represents clients in other related litigation. CAP attorneys also represent clients in federal habeas proceedings and accept CJA appointments in non-capital cases.

Maya interned for me during the summer of 2022. During that summer, she was my right-hand woman as Executive Director of the organization. She performed a wide variety of tasks, from scanning and indexing documents, to interviewing jurors from a capital trial. She drafted post-conviction claims for our clients' state petitions, assisted with the Unanimous Jury Project to preserve claims following Edwards v. Louisiana, and, most significantly, observed an entire capital sentencing trial while sending daily detailed notes to the team.

Her federal work included reviewing a record in a direct appeal before the Fifth Circuit Court of Appeals, researching and writing a first draft of the client's brief, drafting a memorandum regarding the recent SCOTUS decision in Wooden v. United States, reviewing pre-sentence investigations, and calculating guideline ranges.

Maya has an outstanding work ethic, routinely working long hours and putting in strong effort, and notably drafted an emergency memorandum over a holiday weekend before she even began her summer internship. She works well with others, and developed good rapport with our incarcerated clients. But I think most notably, she has a maturity that I don't often see in our law student interns. She understood the high stakes of what we do, and never complained or made it about her. Her qualities are what I would look for in a staff attorney, and I believe she is very well-suited for the role of a federal clerkship.

Sincerely,

Cecelia Kappel

Executive Director, Capital Appeals Project

Cecelia Kappel - CTKappel@defendla.org

June 20, 2023

The Honorable Jamar Walker
Walter E. Hoffman United States Courthouse
600 Granby Street
Norfolk, VA 23510-1915

Dear Judge Walker:

I am thrilled to write this letter of recommendation for Ms. Maya Stevenson, who is an outstanding rising third year law student at The University of Alabama School of Law. I have known Ms. Stevenson since her first year of law school and it has been a pleasure to watch her soar. Ms. Stevenson has the intellect, skill, and work ethic to excel as a judicial clerk. I think she could serve your chambers with distinction. I endorse her application enthusiastically. I hope you will meet her and give her application your fullest consideration.

I have had the privilege of serving on the faculty and teaching at The University of Alabama School of Law for the past 32 years. Most of my courses relate to Constitutional Law. In the first-year curriculum, I teach a comprehensive introduction to constitutional cases. I require students to read, brief, and present leading cases, which we examine closely during class discussions. In advanced classes, we also discuss leading cases, however, students primarily write research papers. In all my classes, I have the chance to observe and evaluate carefully how each student engages the materials and each student's skills. I am proud to write that Alabama Law has many terrific and talented students.

I had the opportunity to observe Ms. Stevenson's talents especially well when she enrolled in my Equal Protection seminar this past spring. The purpose of the seminar course is to provide each student the opportunity to research and write a paper of publishable quality. After initially reading a series of landmark Equal Protection cases, participants presented drafts of their papers to the class. Each participant read each paper. With only five students in the class, I could carefully observe and evaluate each student.

Ms. Stevenson was superb in the class. She read and digested the cases and raised perceptive insights about the various opinions of the justices. For her research paper, she critiqued the Court's equal protection analysis in McCleskey v. Kemp, explaining why the Court's disproportionate impact assessment was inadequate and unpersuasive. Her paper examined the background of the case, its jurisprudential impact, and how the Court should have approached the analysis of the case in light of its precedent. Ms. Stevenson has the aptitude to work through complex materials and to present them clearly.

She also has excellent research and writing skills which will enable her to do the work of a judicial law clerk. She conducted excellent research for her paper, examining the academic literature, leading Supreme Court cases, and state court decisions that related to her topic.

I also had the pleasure of having Ms. Stevenson in my Due Process Survey class last Fall, in which I also witnessed her superior attention to detail. In the Due Process course, Ms. Stevenson was assigned Obergefell v. Hodges, on which she prepared a multi-page brief for the class, breaking down each issue,

what each Justice wrote in the opinion, and the Due Process issues examined in the case. I was extraordinarily impressed with her ability to simplify such a lengthy and complex decision.

Ms. Stevenson also has a reputation for hard work. Throughout her time in law school, both in and outside the classroom, she has been known as a person with an exceptional work ethic. Ms. Stevenson is involved in multiple law school activities and is one of the most active members of our community. She was recently selected as Editor in Chief for the Alabama Civil Rights and Civil Liberties Law Review. Everyone in the law school has the utmost confidence in Ms. Stevenson's ability to lead the journal. It is evident that she has a clear appreciation for the subject matter of the journal and will take her duties seriously.

Beyond her participation on her journal, Ms. Stevenson has also been an active member of the law school's nationally ranked moot-court program. During her second year, she was handpicked out of many applicants to be on the Civil Rights and Liberties Moot Court team, an opportunity rarely afforded to second-year law students. Her team performed well in the competition, bringing back another moot court award for the Law School. Furthermore, the semester after she competed in the Civil Rights and Liberties Moot Court competition, she competed in the law school's internal competition, where she once again beat out many participants to make the prestigious John A. Campbell Moot Court Board.

Finally, Ms. Stevenson meets people easily and works well on a team. Our law school has a very collegial and supportive environment, and Ms. Stevenson has a reputation for being supportive and collaborative with her classmates. I have no doubt that if you meet her, you will be impressed. Again, I endorse her application for a judicial clerkship with great enthusiasm.

Sincerely,

Bryan K. Fair
Thomas E. Skinner
Professor of Law

Bryan Fair - bfair@law.ua.edu - 2053487494

WRITING SAMPLE

Maya Stevenson

201 Marina Drive, Apt. 507

Tuscaloosa, AL 35406

(225) 454-9795

The attached writing sample is an excerpt from a brief submitted to my school's internal Moot Court Competition this Spring. The competition determines who is selected for the law school's Moot Court Board based on brief and oral advocacy scores. Following my selection for the moot court board, I was selected for the law school's Tax Moot Court team, the reigning champions of the Florida Bar Tax Moot Court Competition. The competition's problem involved an interpretational question of whether Rule 4(c) of the Federal Rules of Appellate Procedure precludes relief from incarcerated individuals with representation, with the Supreme Court's decision in *Houston v. Lack,* 487 U.S. 266 (1988) operating as the main case for the problem. The case was on appeal to the United States Supreme Court, with both lower courts ruling in the respondent's favor. This sample contains my argument section. This piece is completely self-written and self-edited.

My team was assigned the respondent, Wesley L. Petrosian, the incarcerated individual in the case. I wrote the first issue, which considered the following question:

I. Under Federal Rule of Appellate Procedure 4(c), is an incarcerated individual with passive representation precluded from the broad terms of its protection?

ARGUMENT

I. THIS COURT SHOULD AFFIRM THE THIRTEENTH CIRCUIT'S RULING BECAUSE FEDERAL RULE OF APPELLATE PROCEDURE 4(C) IS NOT LIMITED TO PRO SE INDIVIDUALS.

Rule 4(c) of the Federal Rules of Appellate Procedure provides the appellate procedure that must be followed for an inmate confined in an institution to timely file an appeal. Fed. R. App. P. 4. Rule 4(c) affords such inmates the benefit of the "mailbox rule"—under this rule, a notice of appeal is considered filed on the date that it is deposited in the prison mail system. It imposes only two requirements on incarcerated individuals to receive this benefit: (1) The appeal must be deposited in the institution's "internal mail system" on or before the last day of filing, and (2) The appeal must be accompanied with the appropriate certification of timing. *Id*.

Notably absent is a requirement that the inmate not be represented by counsel. Rule 4(c) is not sufficiently ambiguous or absurd to warrant courts reading in such a requirement. Unlike other Federal Rules of Appellate Procedure where the drafters have clearly distinguished between pro-se individuals and individuals with representation, no such distinction is present in Rule 4(c).

This Court has never held that the benefit of the prison-mailbox rule applies only to pro se individuals. While the seminal case regarding the mailbox rule *Houston v. Lack*, 487 U.S. 266 (1988), revolves around an incarcerated individual proceeding pro se, it would be incorrect to read its holding as only applying to pro se individuals. Instead, the analysis in *Houston* focuses on three characteristics that make an incarcerated individual uniquely situated, and thus, in need of the mailbox rule's protection. These characteristics center on the lack of control afforded to incarcerated individuals as compared to non-incarcerated individuals which are them being: "(1)

Unskilled in law; (2) Unaided by counsel; and (3) Unable to leave the prison." *Id.* at 271. These characteristics not only describe incarcerated individuals proceeding pro se but can describe incarcerated individuals generally. While Rule 4(c) cannot be read to encompass those with dedicated representation managing each part of their appeal, its protection should be afforded to those who possess the three characteristics written by this Court.

Houston also does not expressly limit the benefit of the mailbox rule to only pro se incarcerated individuals. Such a narrow interpretation of *Houston* misconstrues this Court's analysis. This Court in *Houston* held that pro se incarcerated individuals are entitled to the mailbox rule because of the characteristics they possess, not because they are pro se. A "form over substance" interpretation fails to include prisoners that are disadvantaged in the same way as pro se ones.

A broader, characteristic-based interpretation is further supported by the plain text of Rule 4(c). The drafters of the Federal Rules of Appellate Procedure wrote Rule 4(c) to codify the legal analysis of *Houston*. This codification accurately reflects both the intentions of this Court and the drafters of the rule, which makes no distinction between incarcerated individuals with representation and those without.

The Thirteenth Circuit correctly applied this characteristic-based interpretation, in agreement with the Fourth and Seventh Circuits. *See United States v. Moore*, 24 F.3d 624 (4th Cir. 1994) (noting that whenever an individual files a notice of appeal from prison, they are acting "without the aid of counsel"); *United States v. Craig*, 368 F.3d 738 (7th Cir. 2004) (holding that the mailbox rule applies to "an inmate confined in an institution," and courts should not unnecessarily pencil in extra wording). Other Circuits have disagreed with this interpretation, instead more narrowly interpreting Rule 4(c) to only apply to pro se individuals. *See Burgs v.*

Johnson Cnty., Iowa, 79 F.3d 701 (8th Cir. 1996) (holding that an incarcerated individual with representation was not in the same position as those entitled to the benefit of *Houston); Cousin v. Lensing*, 310 F.3d 843 (5th Cir. 2002) (holding that the justifications for the leniency with pro se prisoner litigants were not applicable to prisoners represented by counsel); *Cretacci v. Call*, 988 F.3d 860 (6th Cir. 2021) (holding that in the context of civil complaints, the prison mailbox rule only applies to unrepresented prisoners who are proceeding pro se); *Stillman v. LaMarque*, 319 F.3d 1199 (9th Cir. 2003) (holding that because an attorney prepared an inmate's habeas petition, the inmate was not proceeding pro se); *United States v. Rodriguez-Aguirre*, 30 F. App'x 803 (10th Cir. 2002) (holding that because there was no evidence of untimeliness being due to exceptional circumstances or circumstances beyond the inmate's control, there was no need for the mailbox rule); *United States v. Camilo*, 686 F. App'x 645 (11th Cir. 2017) (holding that because the mailbox rule was not intended to help prisoners with counsel, it could not apply).

This Court should adopt the broader interpretation utilized by the Thirteenth, Fourth, and Seventh Circuits. First, Rule 4(c) does not include any express limitation of it only applying to pro se individuals, nor is it sufficiently ambiguous or absurd to necessitate courts reading extra words into it. Second, a broader interpretation of the rule is consistent with this Court's analysis in *Houston*. *Houston*, though concerning the circumstances of a pro se individual, should not be read to impose a pro se requirement on Rule 4(c). Instead, its analysis should be confined to the three characteristics this Court defined that merit the protection of the mailbox rule. An in-depth reading of *Houston* reveals this Court's focus is not only on procedure, but fairness. A narrower interpretation foregoes this factor. Lastly, even a narrower interpretation yields the result of Petrosian being afforded the protection of the mailbox rule.

A. The text of Rule 4(c) is sufficiently broad to encompass all incarcerated individuals, not only those proceeding pro se.

Rule 4(c) of the Federal Rules of Appellate Procedure defines the procedure for an "appeal by an inmate confined in an institution." Fed. R. App. P. 4(c). Rule 4(c) prescribes the conditions under which an appeal filed by an inmate is considered timely: (1) When it is deposited in the institution's internal mail system "on or before the last day for filing," and (2) When it is accompanied with the appropriate certification of timing. Fed. R. App. P. 4(c)(1). No further requirements are imposed. When this Court interprets federal rules such as the Federal Rules of Civil Procedure, this Court accords the rule its plain meaning. If this Court finds the terms of the rule unambiguous, judicial inquiry into the meaning of the rule is complete. *Pavelic & LeFlore v. Marvel Ent. Grp.*, 493 U.S. 120, 123 (1989). Only in circumstances where the rule is incoherent or absurd should a court bypass the plain meaning of the rule, conducting further judicial inquiry into the meaning of the rule. *Id.*

The plain meaning of Rule 4(c) requires that Petrosian is entitled to the benefit of the mailbox rule, regardless of his representation status. As mentioned, Rule 4(c) only imposes two requirements for an inmate's appeal to be considered timely—it must be deposited on or before the last day for filing and it must have the appropriate certification. As the Thirteenth Circuit noted, Petrosian met both requirements. R at 11. Neither party disputes this. This is where the analysis should end.

The plain meaning of 4(c) as accorded by this Court's method of interpretation proves the result that Petrosian is entitled to the protection of the "mailbox rule," regardless of his representation status. As the Seventh Circuit noted in *United States v. Craig*, the mailbox rule is dependent on Rule 4(c), which applies to "an inmate confined in an institution." *Craig*, 368 F.3d

738 at 740. As the defendant in *Craig* did, Petrosian meets that description. Accordingly, this Court should not adopt an interpretation that unnecessarily adds extra requirements to Rule 4(c).

Further noted by the Seventh Circuit, Rule 4(c) is "neither incoherent nor absurd." *Id.* The text of Rule 4(c) does not provide limitations in the text that indicate that the rule should only apply to unrepresented individuals, nor does it provide inconsistent wording that would yield such a result. Furthermore, as defined by this Court, the standard for absurdity to overcome the plain meaning of the text is extraordinarily high. Indeed, it must be "so monstrous, that all mankind would, without hesitation, unite in rejecting the application." *Sturges v. Crowninshield*, 17 U.S. 122, 203 (1819). It is unlikely that a broader interpretation affording incarcerated individuals the fairness principles advanced by this Court in *Houston* would result in all mankind uniting in rejecting the text of Rule 4(c) applied to incarcerated individuals generally. No incoherency or absurdity is present that warrant broadening Rule 4(c) beyond its text. Therefore, this Court should follow its precedent and follow the plain meaning of Rule 4(c), which does not distinguish between pro se prisoners and those with representation.

Other Federal Rules of Appellate Procedure further demonstrate the importance of according Rule 4(c) its plain meaning, as the drafters continuously signify when they are drawing a distinction between unrepresented and represented parties. *See, e.g.*, Fed. R. App. P. 25(a)(2)(B)(describing electronic filing processes for unrepresented and represented persons); Fed. R. App. P. 30(a)(3)(distinguishing the number of copies of the appendix that must be provided by unrepresented and represented persons); Fed. R. App. P. 31(b)(distinguishing the number of briefs that must be provided by unrepresented and represented persons); Fed. R. App. P. 32(a)(2)(describing the color of the cover of briefs for represented and unrepresented parties); Fed. R. App. P. 32(g)(1)(describing who must provide a certificate for a brief).

The drafters of the Federal Rules of Appellate Procedure clearly know how to distinguish between unrepresented and represented parties. Yet Rule 4(c)'s only category is an "inmate confined to an institution." Fed. R. App. P. 4(c)(1). Rule 4(c) makes no distinction between represented and unrepresented, further demonstrating that it was designed to apply to all inmates confined to an institution, not only those proceeding pro se.

The legislative history of Rule 4(c) further emphasizes the need to rely on Rule 4(c)'s plain meaning. First, Rule 4(c) codified the *Houston* decision, which similarly makes no express distinction between represented and unrepresented individuals. It was designed with this understanding in mind. *See* Fed. R. App. P. 4 Advisory Committee's Note to 1993 Amendment. Second, the Advisory Committee considered a version of the rule limited to "persons not represented by an attorney," but instead decided to forgo such a narrow requirement. Advisory Committee on Rules of Appellate Procedure, *Minutes of the April 17, 1991 Meeting of the Advisory Committee on Federal Rules of Appellate Procedure,* https://www.uscourts.gov/rules-policies/archives/meeting-minutes/advisory-committee-rules-appellate-procedure-april-1991

Because such a distinction was not included by the Advisory Committee—despite being considered—the Advisory Committee intended for the rule to apply more broadly. Finally, Rule 4(c) has been amended several times since its incorporation, and none of the amendments add the requirement that incarcerated individuals must proceed pro se to obtain its benefit. *See, e.g.*, Fed. R. App. P. 4 Advisory Committee's Note to 1993 Amendment; Fed. R. App. P. 4 Advisory Committee's Note to 1998 Amendment; Fed. R. App. P. 4 Advisory Committee's Note to 1979 Amendment.

Considering the ongoing circuit split, if the Advisory Committee deemed it necessary to distinguish between pro se incarcerated individuals and those with representation, such an

amendment could have been brought. Since it has not, this further indicates that Rule 4(c) is designed to apply equally to incarcerated individuals.

The plain text of 4(c) demonstrates that the rule is not designed to only encompass incarcerated individuals proceeding pro se. This is further demonstrated throughout the other Federal Rules of Appellate Procedure which continuously make a clear distinction between represented parties and unrepresented parties. Rule 4(c) contains no such distinction. Similarly, the legislative history of 4(c) indicates that the drafters of 4(c) intentionally did not preclude its protection from individuals with representation. Therefore, Petrosian meets the qualifications of the rule, as he is an inmate, and accordingly, should be afforded the protection of the mailbox rule.

B. *Houston* should not be read to only apply to pro se individuals.

In *Houston v. Lack*, this Court considered whether a pro se prisoner's notice of appeal is filed at the moment of delivery to prison authorities or when the court receives the notice of appeal. *Houston,* 487 U.S. 266 at 269-270. Under Rule 4(a)(1), this Court held that the notice of appeal was filed at the moment of delivery because of three factors specific to prisoners who file their own appeals. Though the focus of Houston's analysis was a pro se individual, this Court noted that prisoners filing appeals face a unique set of challenges that other appellants do not. *Id.* at 270.

As noted by the Seventh Circuit in *Moore*, a narrow interpretation of *Houston* ignores the reality that even incarcerated individuals with counsel may face circumstances that force them to need the protection of the mailbox rule. *Moore,* 24 F.3d 624 at 626. Because of this, this Court should rely on a broader interpretation that more effectively embodies this Court's approach in

Houston, which is an approach focusing on the unique factors that warrant the protection of the mailbox rule.

The three characteristics described by this Court in *Houston* that make an incarcerated individual's situation unique are the prisoner being: (1) Unskilled in law; (2) Unaided by counsel; and (3) Unable to leave the prison. *Houston*, 487 U.S. 266 at 271–72. All three of these characteristics can apply to incarcerated individuals with representation. Petrosian's circumstances are an example of such a situation. Petrosian has no formal training in law—he only possessed instructions from Krush on how to file a notice of appeal on his own and an explanation of its urgency. Petrosian also filed his notice of appeal completely unaided by counsel. Krush did not help prepare the materials. Petrosian prepared and deposited his valid notice of appeal. R. at 8. Finally, because Petrosian was confined to the Riga Correctional Institution, he was unable to leave the prison. *Id*.

As this Court noted in *Houston*, the prisoner's control over the processing of their notice "necessarily ceases as soon as he hands it over to the only public officials to whom he has access, the prison authorities, and the only information he will likely have is the date he delivered the notice to those authorities and the date ultimately stamped upon it." *Houston*, 487 U.S. 266 at 271. Petrosian's control ceased as soon as he handed it over to the prison authorities that day, demonstrating the same need for the mailbox rule as the pro se litigant in *Houston*.

Furthermore, *Houston* places no express limitation on whom the mailbox rule can apply to. While the opinion does mention pro se litigants several times, never does this Court make an explicit distinction between represented and unrepresented parties. Instead, this Court focuses on characteristics indicative of how much control an inmate retains over the filing of their notice of

appeal. Like the litigant in *Houston*, Petrosian retained no control over the filing of his notice of appeal and was in as much need of the mailbox rule as a pro se litigant.

While a less limited interpretation may open the "floodgates of litigation" or cause impairment to judicial efficiency, such concerns ignore not only the fairness principles underlying *Houston*, but the entire purpose of the judiciary. At the core of the judiciary is the pursuit of justice which requires litigants having the right to "adjudication of their rights in the tribunals which Congress has empowered to act." *England v. Louisiana State Bd. of Med. Examiners*, 375 U.S. 411, 425 (1964). Appeals are also a defining feature of an independent and impartial judiciary, allowing litigants the appropriate remedy when a lower court has reached the wrong conclusion. *See* United States Courts, *U.S. Courts of Appeals and Their Impact on Your Life*, https://www.uscourts.gov/educational-resources/educational-activities/us-courts-appeals-and-their-impact-your-life.

The case before the Court demonstrates this, as without the protection of the mailbox rule, Petrosian would have been unable to challenge his imprisonment. Any argument otherwise asks this Court to consider the number of cases rather than the legal merits the judiciary is designed to address and offends this country's sense of justice.

Houston is premised on the idea of fairness, understanding that incarcerated individuals do not have the same access to filing a notice of appeal as those who are not confined to an institution they cannot leave. *See Houston*, 487 U.S. 266 at 270–72. To leave an entire category of people within these institutions unprotected abrogates the fairness principles advanced by this Court in *Houston*. Further, those with dedicated representation would have no need for Rule 4(c), and would have no need to invoke its protection, preventing an unfair advantage.

Therefore, *Houston* cannot be read to only include pro se individuals, and accordingly, Petrosian should be afforded the protection of the mailbox rule.

1. Even a narrow reading of Houston results in the mailbox rule applying to Petrosian.

Even under a more narrow interpretation of *Houston,* Petrosian should still be afforded the protection of the mailbox rule. If this Court does find that *Houston* is limited to pro se individuals, Petrosian was effectively acting pro se at the time of his appeal. Petrosian completed the same actions as a pro se litigant, undermining the idea that he was represented outside of a passive sense at the time of his appeal. This is because in *Houston,* this Court did not focus on the label of being pro se, but rather the characteristics of the pro se litigant. This Court considered several distinguishing factors regarding pro se prisoners appealing, including: (1) such prisoners being unable to "take the steps other litigants can take to monitor the processing of their notices of appeal and to ensure that the court clerk receives and stamps their notices of appeal before the 30-day deadline;" (2) pro se prisoners being unable to travel to the courthouse to ensure the timeliness of the appeal; (3) while other litigants can entrust the notice of appeal to other parties, only the pro se prisoner is forced to do so; and (4) the pro se prisoner having no choice but to entrust the forwarding of his notice to prison authorities who he retains no control over. *Houston,* 487 U.S. 266 at 271.

At the time of filing his appeal, Petrosian fell into all these categories. Petrosian was unable to take the steps other litigants can take to monitor the process of his notice of appeal and ensure that the court clerk received and stamped his notice of appeal before the deadline. Petrosian was confined to his institution, meaning he could not travel to the courthouse to ensure the timeliness of the appeal. Other litigants who are actively represented can entrust the appeal to other parties, but Petrosian was forced to handle his own appeal. Krush was out of town and had

no method of preparing or mailing the appeal before the deadline. R. at 8. While Judge Carlsen notes in his dissent that Krush could have utilized other methods to expedite the delivery of Petrosian's notice of appeal, such analysis hinges on a hypothetical statement of facts which this Court should not consider. *Id*. at 23. Considering these hypothetical facts in an opinion would result in this Court issuing an advisory opinion, which this Court has said is impermissible. *See Chafin v. Chafin*, 568 U.S. 165, 172 (2013). At the time of filing his notice of appeal, Petrosian was forced to entrust his appeal to prison authorities, who he retained no control over. He had no ability to otherwise entrust it to others.

Even under the Circuits which narrowly interpret Rule 4(c), Petrosian would likely still be afforded its protection. In *Stillman v. LaMarque,* prisoner Fred Stillman was actively represented at the time of his appeal, and therefore did not qualify for the protection of the mailbox rule. *Stillman,* 319 F.3d 1199 at 1201. The Ninth Circuit relied on a California Supreme Court ruling defining the practice of law: "When a lawyer prepares legal documents on behalf of a prisoner and arranges for those documents to be signed and filed, the prisoner is not proceeding without assistance of counsel." *Id.* Stillman's attorney not only prepared his petition for a writ of habeas corpus but filed it. Because his attorney prepared legal documents for him, and arranged for them to be filed and signed, Stillman could not be proceeding pro se. *Id*. Accordingly, because Stillman had active representation participating in each part of his legal proceedings, the Ninth Circuit held that he could not qualify for the protection of the mailbox rule. *Id*. at 1200.

This is wholly dissimilar to the case before this Court. Here, Krush only explained to Petrosian how to file an appeal and stressed the urgency of filing the appeal. Petrosian not only prepared the appeal but sent it off himself. R. at 8. The steps that were taken by the attorney in

Stillman were taken by Petrosian in this case, demonstrating that he was acting without representation even under a narrower interpretation of *Houston*.

In *Cretacci v. Call*, the Sixth Circuit reasoned that a prisoner should not be afforded the protection of the mailbox rule if the prisoner does not need to use the prison mail system and can rely on counsel to file a pleading on their behalf. *Cretacci*, 988 F.3d 860 at 867. The court in *Cretacci* explicitly relied on the fact that the attorney developed the prisoner's case and wrote the complaint. Like the Ninth Circuit in *Stillman*, the Sixth Circuit also relied on Tennessee's definition of representation, writing that when an attorney agrees to represent a client and writes legal documents on the client's behalf, the client is not proceeding without representation. *Id.* at 866. Cretacci and his attorney had an "explicit attorney-client relationship," in which his attorney developed Cretacci's case against the prison, crafted a legal strategy for the case, and wrote the complaint. *Id*. In reliance on Tennessee's definition of representation and the Ninth Circuit's decision in *Stillman*, the Sixth Circuit found that Cretacci was actively represented by counsel when he filed his appeal, despite him mailing it from the prison.

Here, Krush merely agreed to represent Petrosian, and Petrosian prepared his own legal documents. Krush informed Petrosian of the immediacy of filing the appeal and how to file it, but that was the extent of her representation. R. at 8. Accordingly, Petrosian and Krush wouldn't meet the Sixth Circuit's standard for representation indicating the likely result that the court would have ruled in Petrosian's favor in the present case, despite the narrow interpretation the court relies on.

As the Thirteenth Circuit noted, Petrosian was only represented in a passive sense, and was still at the mercy of the prison's mail system and the postal service. R. at 15. Krush merely advised Petrosian on how to file a notice of appeal and told him to file it immediately. It is

unlikely that Krush's representation meets any state's definition of representation as the attorneys did in *Stillman* and *Cretacci.* No one assisted Petrosian with the filing of his appeal, as the attorney did in *Stillman*. Petrosian retained no agent through which he could control the conduct of his action. Instead, Petrosian was forced to rely on prison authorities, as Krush could not file his appeal. Because Petrosian still meets the requirements for the protection of the mailbox rule under a narrower interpretation of *Houston,* he should be afforded its protection if this Court relies on the more narrow interpretation advanced by the government.

Applicant Details

First Name	**Donny**
Middle Initial	**E**
Last Name	**Stewart**
Citizenship Status	**U. S. Citizen**
Email Address	**stewde21@wfu.edu**
Address	**Address** Street **3045 NC Hwy 55 W** City **New Bern** State/Territory **North Carolina** Zip **28562** Country **United States**
Contact Phone Number	**252-474-6904**

Applicant Education

BA/BS From	**Campbell University**
Date of BA/BS	**May 2021**
JD/LLB From	**Wake Forest University School of Law** **http://www.law.wfu.edu**
Date of JD/LLB	**May 20, 2024**
Class Rank	**50%**
Does the law school have a Law Review/Journal?	**Yes**
Law Review/Journal	**No**
Moot Court Experience	**Yes**
Moot Court Name(s)	**Wake Forest Law's Stanley Moot Court Competition** **Wake Forest Law's Walker Moot Court Competition**

Bar Admission

Prior Judicial Experience

Judicial Internships/Externships	**Yes**
Post-graduate Judicial Law Clerk	**No**

Specialized Work Experience

Recommenders

Prescott, Eileen
prescoe@wfu.edu
Gibson, Brenda
gibsonb@wfu.edu
Hong, Esther
esther.hong@asu.edu

This applicant has certified that all data entered in this profile and any application documents are true and correct.